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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~202~~ 23

JOHN W. GOSLING, APPELLANT,

vs.

JOHN ROBERTS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF OHIO.

FILED JUNE 26, 1879.

SUPREME COURT OF THE UNITED STATES.

No. 202.

JOHN W. GOSLING, APPELLANT,

vs.

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APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF OHIO.

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1 At a stated term of the circuit court of the United States within and for the sixth judicial circuit and southern district of Ohio, begun and held at the court-rooms in the city of Cincinnati, on the first Tuesday, being the fourth day of that month, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States of America the one hundred and third. Present, the honorables John Baxter and Philip B. Swing, judges.

JOHN W. GOSLING
vs.
JOHN ROBERTS. } No. 2090. In equity.

Be it remembered that heretofore, to wit, on the ninth day of June in the year of our Lord one thousand eight hundred and seventy-five, came the said John W. Gosling, complainant herein, by C. D. Coffin and C. L. Mitchell, his solicitors, and filed in the clerk's office of the court aforesaid his certain bill of complaint against the said John Roberts, respondent herein, clothed in the words and figures following, to wit:

2 *Bill of complaint.—Filed June* 9, 1875.

Circuit court of the United States, southern district of Ohio.

JOHN W. GOSLING
vs.
JOHN ROBERTS. } In equity.

To the honorable the judges of the circuit court of the United States for the southern district of Ohio.

John W. Gosling, a citizen of Cincinnati, Hamilton County, Ohio, brings this his bill of complaint against John Roberts, also a citizen of Cincinnati, Hamilton County, Ohio, and thereupon your orator complains and says:

That he is the original and first inventor of a new and useful improvement in step-covers and wheel-fenders for carriages, fully described in the reissue of letters patent hereinafter mentioned, and which had not been known or used before his said invention, and which was not at the time of his application for letters patent, as hereinafter mentioned, in public use or on sale with his consent or allowance.

And your orator says that he being so, as aforesaid, the first and original inventor and discoverer of said improvement, and being also a citizen of the United States, did, on the 26th day of February, 1867, upon due application therefor, obtain letters patent of the United States for said invention, in due form of law, under the seal of the Patent Office of the United States, signed by the Acting Secretary of the Interior and countersigned by the Commissioner of Patents of the United States, bearing date the day and year last aforesaid, and numbered 62406, whereby there was granted and secured to your orator, his executor, administrator or assigns, or intended so to be, for the term of seventeen years from and after the date of said letters patent, the full and exclusive right and liberty of making, using, and vending to others to use said improvement, as set forth in the said letters patent.

And your orator says further, that afterwards, on the 4th day of November, 1873, he did, upon due application therefor, obtain a reissue of

said letters patent of the United States, in the form of law, under the seal of the Patent Office of the United States, signed by the acting Secretary of the Interior and countersigned by the acting Commissioner of Patents of the United States, bearing date the day and year last aforesaid, and numbered reissue 5644, whereby there was granted and secured to your orator, his executor, administrator or assigns, or intended so to be, for the term of seventeen years from and after said 26th day of February, 1867, the full and exclusive right and liberty of making, using, and vending to others to be used the said improve-
3 ment, as set forth in said reissue of said letters patent, which said letters patent and the reissue thereof are now remaining on record in the Patent Office of the United States, the originals of which, or copies thereof, your orator is ready to produce, and by virtue whereof your orator became and was and is the sole owner of all the rights and privileges granted and secured, or intended to be granted and secured, in and by said letters patent and the reissue thereof.

And your orator further shows unto your honors that, since the granting said letters patent as aforesaid, he has invested and expended large sums of money, and has been to great trouble in and about said invention, and for the purpose of manufacturing said improved step-cover and wheel-fender, and of manufacturing and selling carriages with said improvement thereto attached, and that said invention has been and is of great benefit and advantage; that the public have, to a considerable extent, acquiesced in and acknowledged the aforesaid rights of your orator, and that your orator will realize and receive large gains and profits therefrom, if infringements by said defendant shall be prevented.

And your orator further shows that the said defendant, well knowing the premises and the rights secured to your orator as aforesaid, but wishing to injure your orator and so deprive him of the benefits and advantages which might, and otherwise would, accrue unto him from said invention, after the issuing of said letters patent and before the commencement of this suit, did, on the 15th day of April, 1874, and on divers other days before then and since, at Cincinnati, Ohio, in said southern district of Ohio, as your orator is informed and believes, without the license or allowance and against the will of your orator, and in violation of his rights, and in infringement of the aforesaid letters patent and the reissue thereof, unlawfully and wrongfully, and in defiance of the rights of your orator, make, construct, and use said improvement, made according to and employing and containing and using said invention and improvement, and the substantial and material parts thereof, and did cause the same to be done, and did attach the same to a large number of carriages, which carriages, with the said improve-
ment so attached, the defendant sold, and that the defendant still
4 continues so to do, and that the defendant threatens to use the same and to manufacture large numbers of carriages with said improvement thereto attached and embodying the same, and to sell said carriages to the effect of depriving your orator of sales for carriages with said improvement thereto attached, and embodying the same, and for said improvement.

And your orator further shows unto your honors that the aforesaid actings and doings of the defendant are all in defiance of the rights acquired by and secured to your orator as aforesaid, and to his great and irreparable loss and injury, and by which he has been and still is being deprived of great gains and profit which he might and otherwise would have obtained, but which have been received and enjoyed, and

are being received and enjoyed by said defendant, by and through his aforesaid acts and doings.

And your orator further shows unto your honors, on information and belief, that said defendant has made and used said improvement, and has sold a large number of carriages, with said improvement thereto attached, and has now on hand a large number of carriages, embodying said improvement and with the same thereto attached, which he is offering for sale, and has made and realized large profits and advantages therefrom, but to what extent, and how much exactly, your orator does not know, and prays a discovery thereof.

And your orator says that the use of said invention by said defendant, and his avowed determination to continue the same, and his other aforesaid unlawful acts in disregard and defiance of the rights of your orator, have the effect to encourage and induce others to venture to infringe said patent, in disregard of your orator's rights.

And your orator further shows unto your honors that he has caused notice to be given to said defendant of said infringements and of the rights of your orator in the premises, and has requested him to desist and refrain therefrom, but he has disregarded said notices, and refused to desist from said infringements, and still continues to use said improvement and to make and sell carriages with said improvement thereto attached, in disregard of your orator's aforesaid rights.

5 And your orator further shows unto your honors, on information and belief, that the defendant in this suit is still engaged in the infringement and unlawful acts above complained of, in said southern district of Ohio.

And, forasmuch as your orator can have no adequate relief except in this court—

To the end, therefore, that the said defendant may, if he can, show why your orator should not have the relief hereby prayed, and may, upon his corporal oath, and according to his best and utmost knowledge, remembrance, information, and belief, full, true, direct, and perfect answers make to the premises, and to all the several matters hereinbefore stated and charged, as fully and particularly as if interrogated as to each and every of said matters, and may be compelled to account for and pay to your orator the profit by them so acquired and the damages suffered by your orator, from the aforesaid unlawful act—

And your orator prays that said defendant and his servants, agents, attorneys, confederates, and workmen, and each and every of them, may be restrained and enjoined by the order and injunction of this honorable court from directly or indirectly, making, constructing, using, working, or putting into practice, operation, or use, or in anywise counterfeiting or imitating said invention, or any part thereof, or anything made in accordance therewith, or like or similar to those which they have heretofore made or used, and from making or vending carriages with said improvement thereto attached; and that the defendant may be decreed to pay the costs of this suit; and that your orator may have such further relief, or such other relief as to this honorable court shall seem meet, and shall be agreeable to equity.

May it please your honors to grant unto your orator the writ of injunction issuing out of, and under the seal of this honorable court, in due form of law, commanding, enjoining, and restraining the defendant and his servants, agents, attorneys, confederates, and workmen, and each and every of them, as is hereinbefore in that behalf prayed.

May it please your honors to grant unto your orator the writ of subpœna issuing out of and under the seal of this honorable

6 court, directed to the said defendant commanding him, by a certain day and under a certain penalty, to be and appear in this honorable court, then and there to answer the premises and to stand to and abide such order and decree as may be made against him.

And your orator will ever pray, etc.

CHARLES L. MITCHELL,
C. D. COFFIN,
Solicitors for the Complainant.

UNITED STATES OF AMERICA,
Southern District of Ohio:

Before me, the undersigned authority, personally appeared the above named John W. Gosling, who, being by me duly sworn, says that he is, as he verily believes, the original and first inventor of the improvement patented to him by the letters patent and the reissue thereof described in the foregoing bill of complaint; that he has read the said bill of complaint and knows the contents thereof, and that the facts therein contained are true of his own knowledge, except as to matters stated on information and belief, and as to those matters he verily believes them to be true.

JOHN W. GOSLING.

Sworn to before me and subscribed in my presence this 3rd day of June, 1875.

[NOTARIAL SEAL.] J. L. WARTMANN,
Notary Public, Hamilton County, Ohio.

7 And thereupon there was issued out of the clerk's office of the court aforesaid our certain writ of subpœna directed to the marshal of this district against the said defendant, clothed in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Southern District of Ohio, ss:

The President of the United States of America to the marshal of the southern district of Ohio, greeting:

You are hereby commanded to summon John Roberts, citizen of and resident in the State of Ohio, if he be found in your district, to be and appear in the circuit court of the United States for the southern district of Ohio, aforesaid, at Cincinnati, on the first Monday in July next, to answer a certain bill in chancery, filed and exhibited in said court against him by John W. Gosling, citizen of and resident in the State of Ohio. Hereof you are not to fail under the penalty of the law
8 thence ensuing, and have you then and there this writ on the first Monday July.

Witness the honorable M. R. Waite, Chief Justice of the United States, this 9th day of June, A. D. 1875, and in the 99th year of the Independence of the United States of America.

[SEAL.] Attest: THOS. AMBROSE, *Clerk.*

MEMORANDUM.—The said defendant is required to enter his appearance in this suit in the clerk's office of said court on or before the first Monday of July, 1875; otherwise the said bill may be taken pro confesso.

THOS. AMBROSE, *Clerk.*

And, afterward, to wit, on the eleventh day of June, in the year last aforesaid, came the marshal to whom the said writ was in form aforesaid directed, and returned the same into the clerk's office of the court aforesaid, with his proceedings endorsed thereon in the words and figures following, to wit:

Rec'd this writ June 9th, 1875, at 5.20 o'clock p. m., and served same as follows: Personally on John Roberts at 3 p. m., June 10th, 1875.

W. R. THRALL,
U. S. Marshal,
By J. H. WEAVER, *Dep'ty.*

9 And afterward, to wit, on the fifth day of October, in the year last aforesaid, an entry was made upon the journal of said court in said cause, clothed in the words and figures following, to wit:

Leave to answer.

JOHN W. GOSLING *vs.* JOHN ROBERTS. } 2090. Equity.

On motion to the court it is ordered that the default in the above case be and the same is hereby set aside, and defendant has leave to file his answer forthwith, and the same is accordingly filed; which said answer is in the words and figures following, to wit:

10 *Answer of John Roberts.*

United States circuit court, southern district of Ohio.

JOHN W. GOSLING *vs.* JOHN ROBERTS. } In equity.—Answer—Filed October 5, 1875.

The answer of John Roberts to the bill of complaint of John W. Gosling, complainant.

This defendant now, and at all times hereafter, saving and reserving to himself all and all manner of benefit and advantage of exceptions to the many errors and insufficiencies in the complainant's said bill of complaint contained, for answer thereunto, or so much or such parts thereof as this defendant is advised is material for him to make answer thereunto, answers and says:

That the defendant is informed, and therefore admits, that letters patent of the United States were granted to John W. Gosling, the complainant herein, for alleged improvement in step-cover and wheel-fender for carriages, and that the said Gosling obtained a reissue of said letters patent on or about February 26, 1873, but whether or not the forms of law in such cases made and provided were complied with, this defendant does not know and is not informed, save by said bill of complaint, and leaves the complainant to make such proof thereof as he may deem proper.

11 And this defendant, further answering, denies that the said letters patent were obtained for good and lawful cause; but, on the contrary, this defendant avers, on information and belief, that the said invention was known and used prior to the date of said letters

patent referred to in said bill of complaint, and that the said John W. Gosling was not the original and first inventor of the matters and things claimed in the letters patent and reissue cited in said bill of complaint, or any material or essential part thereof, and that the alleged invention and improvement claimed in said original letters patent and the reissue of the same, includes matters to which the complainant has no right or title.

That said invention and improvement is claimed by the said complainant without good and lawful cause, in the said letters patent and the reissue thereof, and that the said reissue is null and void.

This defendant, further answering, denies, on information and belief, that the alleged invention, or any material part thereof, was new at the time said letters patent were originally granted to said Gosling; on the contrary, this defendant, on information and belief, avers that the alleged invention was publicly known and used prior to the alleged invention thereof by the said complainant.

And this defendant further avers, on information and belief, that all the essential and material parts of the alleged invention, set forth and claimed by said complainant in the aforesaid letters patent and the reissue thereof, were publicly known and used by divers parties and persons in the United States for more than two years prior to the date of the letters patent referred to in the aforesaid bill of complaint.

And this defendant, further answering, on information and belief, avers that for more than two years prior to the application upon which the original letters patent, referred to in said bill of complaint, were granted, the alleged invention was publicly used and known to divers persons, and that among other persons and parties who had knowledge of all the material and substantial parts of the al-
12 leged invention, set forth in the original letters patent and reissue referred in said bill of complaint, the said invention was publicly known and used in Cincinnati, and known to the following persons: James Simonton, in the city of Cincinnati, State of Ohio, by B. R. Steavers, R. Bruce, Frank Kinker, John M. Miller, F. C. Albrecht, John Curtis and H. W. Ranson, all of Cincinnati aforesaid.

And it is averred by this defendant, on information and belief, that the said reissued letters patent, cited in the said bill of complaint, were not obtained for good and lawful cause, but on the contrary, this defendant alleges, on information and belief, that the said reissued letters patent were obtained by the said complainant, to enable him to expand and include therein, inventions and things of which the said complainant was not the original and first inventor, and which he has no right to include in the said reissued patent, and that inventions are claimed in the said reissue by the said complainant to which he has no right or title, and which he was not entitled to claim in the original letters patent.

And this defendant believes and so charges, that the said reissued letters patent to the said complainant, were obtained by him to enlarge and expand the scope of his alleged invention and claims, and thereby to harass this defendant and others with vexatious suits and intimidations, for alleged infringement of said patent, and to enable him to extort license-fees from this defendant and others, for the use of the alleged invention, or to compel them to abandon their business.

And this defendant, further answering, on information and belief, denies that the alleged invention, set forth in the letters patent and reissue cited in said bill of complaint, is of any great value or importance to the public. On the contrary, the alleged invention is of no material value or importance.

And this defendant denies that he has injured the profits, benefits, and advantages of the complainant, by infringement or invasion of any good and lawful right held by said complainant for and to the alleged improved step-covers and wheel-fenders for carriages. But on the contrary, this defendant denies that the said complainant had ever any legal or valuable interest in said alleged invention.

13 And this defendant, further answering, on information and belief, denies that the said complainant has ever been entitled to the sole use and ownership of the alleged improved step-cover and wheel-fender for carriages, set forth in the letters patent and reissue referred to in said bill of complaint or of any material or substantial part thereof. And this defendant denies that he has made, used, or sold carriages containing the improvements claimed in said reissued letters patent, or that he has infringed the same, or violated any right belonging to the complainant, or caused the said complainant loss or any damage by any manufacture or use of the said alleged invention, or that the complainant has ever been entitled to the sole use and monopoly of the said alleged improvements, in step-covers and wheel-fenders for carriages.

And this defendant, answering, says that he does not know, and is not informed to what extent, or how limited has been the rate of manufacture or number made of the alleged improved step-covers and wheel-fenders, by the said Gosling, or what profit, if any, he may have derived therefrom, and leaves the complainant to make such proof, as he may be advised.

And this defendant prays that the same benefit of the matters and things herein set forth as if for the reason thereof, the said bill had been demurred to when a demurrer would have been proper, and the same benefit as he would have had in case the same had been specially pleaded in bar of said bill. And this defendant submits to this honorable court, that the said complainant has no right to the said bill of complaint, and no right to any injunction, account, or other relief prayed for in the bill aforesaid.

And this defendant further prays to be hence dismissed with his reasonable costs and charges.

WM. HUBBELL FISHER,
Solicitor for Defendant.

UNITED STATES OF AMERICA,
Southern District of Ohio:

14 Before me, a notary public, personally appeared John Roberts, the aforesaid defendant, and was by me duly sworn, deposes and says that he has examined the foregoing answer, has read the contents thereof, and the same are true to the best of his knowledge and belief.

JOHN ROBERTS.

Subscribed in my presence by the said John Roberts, and by him sworn to this 7th day of August, 1875.

[NOTARIAL SEAL.] D. P. KENNEDY,
Notary Public, Hamilton County, Ohio.

15 And afterwards, to wit, on the thirteenth day of December, in the year last aforesaid, an entry was made on the journal of said court, in said cause, clothed in the words and figures following, to wit:

Leave to reply.

JOHN W. GOSLING
vs.
JOHN ROBERTS. } 2090. Chancery.

On motion to the court it is ordered that the default herein be and the same is hereby set aside, and the complainant has leave to file his replication herein forthwith, and the same is accordingly filed.

Which replication is in the words and figures following, to wit:

16 *Replication of John W. Gosling.*

Circuit court of the United States, for the southern district of Ohio.

JOHN W. GOSLING, COMPLAINANT,
vs.
JOHN ROBERTS, DEFENDANT. } No. 2090. In chancery. Replication. Filed December 13, 1875.

The replication of John W. Gosling to the answer of John Roberts, defendant.

This repliant, saving and reserving to himself all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties, and insufficiencies of the answer of the said defendant, for replication thereunto, saith that he doth and will aver, maintain, and prove his said bill to be true, certain, and sufficient in the law to be answered unto by the said defendant, and that the answer of the said defendant is very uncertain, evasive, and insufficient in the law to be replied unto by the repliant; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed, or avoided, traversed, or denied, is true; all which matters and things this repliant is ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays as in his said bill he hath already prayed.

C. D. COFFIN, AND
CHAS. L. MITCHELL,
Solicitors for Complainant.

17 And afterwards, to wit, on the twenty-second day of January, in the year of our Lord one thousand eight hundred and seventy-seven, came the said parties, by their said attorneys, and filed in the clerk's office of said court their certain stipulation as to taking testimony of said defendants, clothed in the words and figures following, to wit:

JOHN W. GOSLING
vs.
JOHN ROBERTS. } No. 2090. In equity.

It is agreed by and between the parties above named that the defendant shall have until the first of March, A. D. 1877, to complete his testimony in above case, and shall complete his testimony prior to said date.

COFFIN & MITCHELL,
Attorney' for Complainants.
WM. HUBBELL FISHER,
Attorney for Defendant.

18 And afterwards, to wit, on the twenty-ninth day of October, in the year of our Lord one thousand eight hundred and seventy-eight, an entry was made upon the journal of said court in said case, clothed in the words and figures following, to wit:

JOHN GOSLING
vs. } 2090. Equity.
JOHN ROBERTS.

On motion to the court and by consent of parties it is ordered that the defendant have leave to file his amended answer herein forthwith, and the same is accordingly filed.

Which said amended answer is in the words and figures following, to wit:

19 *Amended answer.—Filed October* 29, 1878.

Circuit court of the United States, southern district of Ohio.

JOHN W. GOSLING
vs. } No. 2090. In equity.
JOHN ROBERTS.

And now comes the defendant, and by leave of the court first had and obtained, upon full information and belief alleges, by way of amendment to his answer in this cause, that all the substantial parts of the alleged invention, described in the letters patent mentioned in the complainant's said bill, were, before the said invention was made by the said complainant, known to the following person, at the following place, to wit: John C. Otting, of Cincinnati, county of Hamilton, State of Ohio, at and in said city of Cincinnati.

And this defendant will give in evidence the following letters patent, or certified copies thereof, issued by the United States, to the following-named persons, to wit:

20 Letters patent No. 8816, issued March 23, A. D. 1852, to Josiah Ashenfelder, of Philadelphia, Penn., which said letters patent the respondent, upon information and belief, alleges, contains the alleged invention described in the letters patent mentioned in the complainant's said bill.

Also letters patent to John Roberts, No. 90584, issued May 25, A. D. 1869.

Also letters patent to John Gosling, complainant, No. 62406, dated February, 1867.

JOHN ROBERTS.

WM. HUBBELL FISHER,
Solicitor and of Counsel for Respondent.

THE UNITED STATES OF AMERICA,
Southern District of Ohio, ss:

John Roberts, the respondent herein, being duly sworn, deposes and says that he has heard read the above amended answer; that he knows the contents thereof, and that the same is true of his own knowledge, except as to matters therein stated on information and belief, and as to those matters he believes them to be true.

JOHN ROBERTS.

Sworn to and subscribed before me this 28th day of September, A. D. 1878.

[NOTARIAL SEAL.] E. GILLIGAN,
Notary Public, Hamilton County, Ohio.

This amendment may be filed, and objections to the examination of any witness herein named, whose depositions have already been taken on the ground that they were not named in the answer, are hereby waived; and it is agreed that the above named letters patent (or certified copies thereof) are admitted in evidence, and the right to object thereto on the ground that they were not offered in evidence, at the taking of the respondent's testimony is hereby waived.

COFFIN & MITCHELL.

21 And afterwards, to wit, on the eighteenth day of November, in the year last aforesaid, came the parties, by their counsel, and filed their certain agreement as to replication, clothed in the words and figures following, to wit:

Agreement.

JOHN W. GOSLING *vs.* JOHN ROBERTS. } 2090.

It is hereby agreed on behalf of the defendant, John Roberts, that whereas, since the filing of the replication herein by complainant, the respondent has filed an amended answer herein: Now, therefore, the said John Roberts, by his attorney of record, consents that the said replication shall be held and treated as though it had been filed to the said amended answer, as well as to the answer herein; and further that this agreement be filed as of the above entitled case.

WM. HUBBELL FISHER,
Sol'r & of Counsel for Respondent.
COFFIN & MITCHELL,
Counsel for Complainant.

22 II.—*Exhibit and agreement.*

Original patent. No. 5644.—Reissue.

The United States of America, to all to whom these presents shall come:

Whereas John W. Gosling, of Cincinnati, Ohio, has presented to the Commissioner of Patents a petition praying for the reissue of letters patent for an alleged new and useful improvement in step-covers and wheel-fenders for carriages (for which letters patent were issued to him dated February 26, 1867, which letters having been surrendered, the same have been canceled, and new letters ordered to issue to him on an amended specification), a description of which invention is contained in the specification of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such cases made and provided; and

Whereas, upon due examination made, the said claimant is adjudged to be justly entitled to a patent under the law:

Now, therefore, these letters patent are to grant unto the said John

W. Gosling, his heirs or assigns, for the term of seventeen years from the twenty-sixth day of February, one thousand eight hundred and sixty-seven, the exclusive right to make, use, and vend the said invention throughout the United States and the Territories thereof.

23 In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington, this fourth day of November, in the year of our Lord one thousand eight hundred and seventy-three, and of the Independence of the United States of America the ninety-eighth.

[SEAL OF THE PATENT OFFICE.] B. R. COWEN,
Acting Secretary of the Interior.

Countersigned—
[SEAL.] J. M. THACHER,
Acting Commissioner of Patents.

UNITED STATES PATENT OFFICE.

John W. Gosling, of Cincinnati, Ohio. Improvement in step-covers and wheel-fenders for carriages. Specifications forming part of letters patent No. 62406, dated February 26, 1867; reissue No. 5644, dated November 4, 1873. Application filed June 24, 1873.

To all whom it may concern:

Be it known that I, John W. Gosling, of Cincinnati, in the county of Hamilton and State of Ohio, have invented a new and useful combined step-cover and wheel-fender for carriages, of which the following is a specification:

My invention consists of a cheap and simple device for preventing the accumulation of mud and dirt on the steps of carriages, etc., and also for guarding the clothes of the rider from coming in contact with the wheels on entering or leaving the vehicle.

In the accompanying drawings Fig. 1 shows the position of my fender when the carriage door is open; Fig. 2 represents it when the door is closed.

A represents the body of the carriage; B, the rear wheel; C, the door; and D, the step. E is a plate which may be made of sheet
24 metal or other suitable material, and the upper end of said plate is hinged or otherwise secured to the door, C. The lower end of the combined cover and fender E may be connected to the bar H, having an eye, *h*, which engages with a suitable aperture in the flange, *d*, of the step. This provision of the perforated flange, *d*, and eye, *h*, by reason of its loose character, permits the cover and fender E to turn freely in either direction as the door C is opened or closed.

The cover and fender E I prefer to make of flexible material, so that it may bend in the act of opening and closing the door (see dotted lines in Fig. 1) and its elasticity enables it to hold the door firmly, in either the closed or wide-open position, when the cover and fender are connected, as shown, to the step D.

When the door C is shut, the plate E closes up over the step D and prevents the wheels from throwing dirt over the step, as clearly shown in Fig. 2; but as soon as the door is opened the cover and fender E, being attached to the door C, is of course carried with the door, and thus the step is uncovered, and the plate E then occupies such a position as to enable it to serve as a fender to prevent the rider's clothes, on entering or leaving the carriage, from coming in contact with the hind wheel of the carriage, as represented in Fig. 1. The said plate E

may be covered with leather or painted, or may consist wholly of leather.

I have selected for illustration the preferred form of my invention, but reserve the right to vary the same, it being susceptible of being made to assume various forms and modifications; for example, instead of being pivoted to the step D, the lower end of the plate E may be hinged or otherwise coupled to a frame projecting from the carriage-body and passing under the step. In some cases, when the distance from the wheel to the body is short, I provide slots on both step and fender, or one of them, to partially or wholly relieve the plate of the flexion incident to opening or closing the doors.

The important feature of my invention is the plate E attached to the door of the carriage, and operating, by reason of such attachment, as a step-cover when the door is closed, and as a wheel-fender when the door is open.

I claim:

1. In combination with the step D and the door C, the plate E attached to the door, to operate as a step-cover when the door is closed, and a wheel-fender when the door is open, substantially as and for the purpose specified.

2. A combined step-cover and wheel-fender for carriages, consisting of the flexible plate E, the upper end of which is attached to the carriage-door, and the lower end to the step, all being combined to operate as a step-cover, wheel-fender, and a spring connection to retain the door in the opened and closed positions, all substantially as set forth.

In testimony of which invention I hereunto set my hand.

JOHN W. GOSLING.

Witnesses:
FRANK MILLWARD.
R. M. HUNTER.

Agreement.

Circuit court of the United States, southern district of Ohio.

JOHN W. GOSLING, COMPLAINANT,
vs.
JOHN ROBERTS, RESPONDENT. } No. 2090.

It is hereby agreed by counsel for parties, in order to lighten the expense of printing the record in the case above entitled, that the patents, both original and of reissue, to be adduced on behalf of both parties in the trial of this case, may be left out of the printed record, a copy of this agreement to be printed instead; and that the parties will furnish to the court, in lieu of such printing of said patents, uncertified copies of such patents, both original and of reissue, which may have been introduced in evidence, on the trial of said case, by either party.

COFFIN & MITCHELL,
Counsel for Complainant.
WM. HUBBELL FISHER,
Counsel for Respondent.

CINCINNATI, O., *Nov.* 20, 1878.

27 III.—TESTIMONY FOR COMPLAINANT.

Circuit court of the United States, southern district of Ohio.

JOHN W. GOSLING
vs.
JOHN ROBERTS. } No. 2090. In equity.

Notice.

The defendant and his attorney will take notice that on Monday, the tenth day of April, A. D. 1876, the complainant above named will take the depositions of Frank Millward, J. W. Gosling, and sundry witnesses to be used as evidence on the trial of the above cause, at the office of C. D. Coffin and Chas. L. Mitchell, attorneys, at the S. E. corner of Fourth and Main streets, in Cincinnati, in the county of Hamilton, in the State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day between the same hours until they are completed.

C. D. COFFIN & CHAS. L. MITCHELL,
Attorneys for Complainant.

Service of the above notice is acknowledged, and proof of the official character of the officer before whom the said depositions may be taken is by agreement waived; also all exceptions in regard to time.

Done this 6th day of April, 1876.

WM. HUBBELL FISHER,
Attorney for Respondent.

28 *Caption.*

Depositions of sundry witnesses taken before me, William H. Williamson, a notary public within and for the county of Hamilton, in the State of Ohio, pursuant to the annexed notice, and at the time and place therein specified, to be read in evidence on behalf of complainant in an action pending in the circuit court of the United States for the southern district of Ohio, in which John W. Gosling is complainant, and John Roberts, on behalf of defendant. C. D. Coffin and Chas. L. Mitchell being present in behalf of complainant, and on behalf of defendant.

Deposition of Frank Millward.

FRANK MILLWARD, of lawful age, being by me first duly sworn, deposes and saith as follows:

Question 1 (by CHAS. L. MITCHELL). State your name, age, residence, and occupation.

Ans. Frank Millward; age, 42 years. I reside in Ludlow, Kentucky, and do business in Cincinnati as a solicitor of patents and a mechanical engineer.

Ques. 2. State particularly what has been your business and occupation for the past twenty years; whether you have been engaged in mechanical pursuits; whether you have been engaged as draughtsman, etc., and particularly what opportunities you have had for and what experience you have had in the examination of mechanical and other

devices used in the various branches of manufacture and the useful arts, and whether you have ever been called upon to testify as an expert in patent cases.

Ans. For nearly 27 years I have been engaged wholly in mechanical occupations, successively as practical machinist, draughtsman, superintendent of manufactures, and as solicitor in the preparation of applications for letters patent for various mechanical devices, during which time I have become familiarized with the principles of mechanism, and the application thereof to the construction of machines. I am
29 almost daily called upon to examine and compare mechanical devices, with a view of forming an opinion on the similarity or difference, and to frequently testify in the circuit courts of the United States as a mechanical expert in patent cases.

Ques. 3. Have you examined the letters patent granted to John W. Gosling, the complainant, numbered 5644, reissue, and dated Nov. 4, 1873, which are a reissue of letters patent issued to complainant dated Feb. 26, 1867, and for an improvement in step-covers and wheel-fenders for carriages? If yea, describe the improvement therein patented and its object. State whether it is a valuable invention or not; state also whether or not you have seen the device applied to carriages, and if yea, state how it operated.

Ans. I have carefully read and examined said reissue patent No. 5644, and believe I understand the construction and operation of the combined step-cover and wheel-fender for carriages, shown and described therein. I understand it to be a single instrumentality by which two important functions are performed, one of which is the covering of the step of the carriage to prevent the accumulation of mud and dust thereon, when the carriage-door is closed, and the other to form a fender over a portion of the wheel when the carriage-door is open, to prevent the clothes of the rider from coming in contact with the wheels on entering or leaving the vehicle. This instrumentality consists of a thin plate attached to the door of the carriage and arranged so that when the door is closed it will occupy a position over the step, and when the door is opened a position in front of the wheel, so as to act as a fender therefor. This I understand to be the broad invention specified in said reissue 5644, and recited in the first claim thereof. The improvement specified in the second claim of said reissue I understand to consist of a special construction of the plate by which it is rendered flexible, and in a connection between the plate and the step, which enables the flexibility of the plate to assist in holding the carriage-door closed.

I have seen these step-covers and fenders; that is, step-covers and fenders made in accordance with this patent, some embracing
30 the separate improvements in one carriage, and others embracing only the broad improvements specified in the first claim, and I regard these combined step-covers and fenders for carriages as eminently useful and important, and consequently valuable.

Ques. 4. Examine the models shown you now, marked Model A and Model B, respectively. State whether the Model A is a correct representation of the improvement described in said letters patent issued to Gosling. State also whether you have seen the combined step-cover and wheel-fender now used by the defendant Roberts; if so, where and when? State also whether the model marked B is a correct representation of the step-covers and wheel-feeders now used by Roberts.

Ans. I have examined the models marked Model A and Model B, and I find that the model marked Model A is a correct representation of the

improvement shown and described in reissue 5644, and specified in the first and second claims thereof. I have seen the combined step-cover and wheel-fender now used by defendant Roberts. I saw it for the first time in 1873, and I examined it particularly again this morning at the defendant's manufactory. The model marked Model B is a substantially correct representation of the combined step-cover and wheel-fender used by the defendant.

Ques. 5. Compare the models A and B and the improvements which they represent. State whether they are substantially the same, or whether they are substantially different. State also whether the device represented by the Model B consists of and embraces the improvement shown by Model A and covered by said letters patent, or whether it consists of and embodies a different device and improvement.

Ans. I have carefully compared the models referred to and the improvement which they represent. I have already said that Model A contains the important improvement specified in the first claim of reissue 5644, and that it also contains the special construction specified in the second claim; and I also find that Model B contains to the same extent precisely the improvement specified in the first claim of reissue patent 5644, for the reason, which is clearly obvious by inspec-
31 tion of the models, that the Model B has, like Model A, a plate attached to the carriage-door, which, when the door is closed, assumes a position closely fitting over the step, and which, when the door is opened, assumes a position in front of the carriage-wheel to serve as a fender, the first position serving to prevent the accumulation of mud and dust upon the step, and the second to prevent the clothes of the rider from coming into contact with the wheels of the vehicle, all exactly as contemplated in the reissue patent No. 5644, and recited particularly in the first claim thereof. I am therefore of the opinion that Model B contains the improvement specified in the first claim of reissue patent 5644.

I do not say, however, that it contains a special improvement, specified in the second claim of that patent, for the reason that the plate on the carriage door in Model B is not linked or secured at the lower inside corner to the step, as is required to be done in order to be in conformity with the requirements of said second claim, in my opinion.

NOTE.—Exhibit I, offered in connection with this deposition by the counsel for the complainant, consists of the two models, A and B, above referred to.

W. H. WILLIAMSON, *N. P.*

Cross-examination by defendant's counsel:

X-ques. 1. Have you given to the first claim of said reissue No. 5644 the broadest construction which it is capable of receiving?

Ans. I don't know; I have simply given my understanding of it.

X-ques. 2. Could said first claim receive a broader construction than you have given it?

Ans. Not consistently, I think.

X-ques. 3. Under the construction which you have given said first claim, would the same construction be retained if you omitted the words "substantially as and for the purpose specified" appended to said claim?

Ans. Certainly; for the reason that I always understand that
32 the elements and purpose must be substantially as specified, whether those words appear in the claim or not.

X-ques. 4. Then, in your opinion, said first claim could not receive a

narrow or limited construction by means of the words, "substantially as and for the purpose specified;" is that so?

Ans. It could not receive any narrower than those words would imply. Those words are quite common in patent claims, and I do not understand that they add new elements to the claim.

X-ques. 5. What time in 1873 did you examine the defendant Roberts' combined step-cover and wheel-fender referred to in this deposition?

Ans. Some time before November, I think.

X-ques. 6. Was it before or after June 24, 1873?

Ans. I think it was after.

X-ques. 7. Who was the agent or attorney employed in prosecuting the application of complainants for said original letters patent No. 62406?

Ans. I think Knight Brothers, of Cincinnati.

X-ques. 8. Who was the agent or attorney who prosecuted the application of complainant for said reissue No. 5644?

Ans. I was.

F. MILLWARD.

Adjourned, by consent, until 2 o'clock Tuesday p. m., April 11th, 1876.

W. H. WILLIAMSON,
Notary Public.

TUESDAY, *April 11th*, 1876.

Adjourned by mutual consent until 2 o'clock p. m., Wednesday, April 12th, 1876.

W. H. WILLIAMSON,
Notary Public.

WEDNESDAY, *April 12th*, 1876.

Present, Chas. L. Mitchell for complainant, and W. H. Fisher for defendant.

33 *Deposition of John W. Gosling.*

JOHN W. GOSLING, of lawful age, being first duly sworn by me, deposes and saith as follows:

Ques. 1 (by CHAS. L. MITCHELL). State your name, age, residence, and occupation.

Ans. John W. Gosling; 57th year; carriage manufacturer; Cincinnati.

Ques. 2. How long have you been engaged in the manufacture of carriages?

Ans. I think since '41, in Cincinnati.

Ques. 3. State whether or not you are the complainant in this suit.

Ans. I am.

Ques. 4. State whether or not you obtained a patent, dated February 26th, 1867, numbered 62406, and a reissue thereof numbered 5644, and dated November 4th, 1873, out of the Patent Office of the United States; and if so, state what those letters were for.

Ans. I did. It was for the purpose of covering an improvement for carriages in a combined step-cover and wheel-fender.

Ques. 5. Examine Exhibit 1 now shown you, and state whether the models, marked A and B thereof, or either of them, are a correct representation of the improvement for which said letters were issued to you, or whether they, or either of them, are for a different improvement.

Ans. I consider them a fair representation of the improvement.

Ques. 6. State whether, since the issuing of said letters patent and the reissue thereof, you have applied and used said improvement on vehicles, in the course of your business.

Ans. I have.

Ques. 7. State what has been your experience in the manufacture of carriages, and what knowledge you possess as to the various improvements connected therewith, and state also whether, until the time of your invention, you knew of any such improvement having been known or used in carriages.

34 Ans. I have been actively and constantly engaged for thirty-five years past. I am well up in knowledge of the improvements that have been made in carriages. I did not know of any invention of that kind. Have always considered it an original invention.

Ques. 8. State whether you have any knowledge as to the various kinds of step-covers, and various kinds of wheel-fenders previously used on carriages. If so, describe them, and say whether or no you knew of any step-cover and wheel-fender combined having been used on carriages prior to your invention.

Ans. I think I am well posted in regard to the various kinds and styles of step-covers that have been used. There is an old device of a step-cover attached to carriage doors being useful for excluding dust and mud from steps. There is what is called fenders, which is an old device, they being stationary or covering the hind wheel of the vehicle, being useful in protecting the dress of the rider in getting in or out of the vehicle. I know of no step-cover and wheel-fender combined, attached to the door of the carriage, prior to my invention.

Ques. 9. Are you acquainted with the defendant, John Roberts?

Ans. I am.

Ques. 10. State whether you have seen carriages manufactured by the defendant.

Ans. I have.

Ques. 11. State whether or no any of such carriages made by Roberts had attached to them step-covers and wheel-fenders combined.

I have seen them very frequently.

Do you mean that you have seen such carriages, with combined step-covers and wheel-fenders?

Ans. I have.

Ques. 12. Describe the combined step-covers and wheel-fenders used on those carriages made by Roberts, and state whether or no either of the models, A or B, of Exhibit 1 before referred to, resemble those step-covers and wheel-fenders.

Ans. It is substantially the same in both, except that his mode of putting them on is like Model B.

35 Ques. 13. Is Model B a correct representation of the combined step-covers and wheel-fenders, used by Roberts on those carriages, or is it materially different therefrom?

Ans. I think it a very accurate model.

Ques. 14. State where and when you saw those carriages so manufactured by Roberts.

Ans. They are seen on the streets almost daily.

Ques. 15. Have you seen them, or any of them, at any other place or places, than on the streets?

Ans. I have seen them at his warerooms, at his factory in Cincinnati.

Ques. 16. When did you see them at the warerooms?

Ans. I think within the last two years I saw a vehicle at his ware-room, with this step-sover. My impression is that Mr. Roberts informed me that he had sold it to General Hickenlooper.

Ques. 17. Can you fix the date of that sale, or of that statement of Mr. Roberts to you?

Ans. I think I can do it, but not just at present.

Ques. 18. Can you state whether Mr. Roberts made that statement to you before or since the reissue of your letters patent.

Ans. It was since the reissue.

Ques. 19. State whether or no you have any knowledge of the manufacture or sale by Roberts, of other carriages having said combined step-cover and wheel-fender attached, since the reissue of said letters patent.

Ans. I think I have.

Ques. 20. Can you specify approximately the number and dates of those sales, or the persons to whom they were sold?

Ans. In the fall of 1874, I think in October, I had business with Nicholas Patterson, at his stable (carriage-house). While there he called my attention to a carriage, which he said he purchased of Mr. Roberts, within a short time previously. That, I think, had the step-cover and wheel-fender attached.

(Objected to on the ground of hearsay.)

36 Cross-examined by W. H. FISHER:

X-ques. 1. Why did you reissue your original letters patent No. 62406?

Ans. One object was to get in the claim as I had originally intended it. When the invention was born, I said to myself that I have a step-cover and wheel-fender attached to the door of the carriage—something entirely new. That, at the time, was my claim, which I had in my mind.

X-ques. 2. Do I understand you to affirm that the reissue No. 5644 covers the improvements shown in Models A and B?

Ans. That is my understanding of the reissue.

X-ques. 3. Does claim second of said reissue cover, in your opinion, the device represented by Model B?

Ans. I have always considered that it did.

X-ques. 4. That is to say, that if claim one was omitted from said reissue, the device represented by Model B would be an infringement of claim two of said reissue. Is that right?

Ans. That has been my opinion.

X-ques. 5. Did you believe that your original letters patent No. 62406 covered said device represented by Model B, and that the said device was an infringement of the claim of said original patent?

Ans. That was my impression.

X-ques. 6. Did you ever try to sell your reissue No. 5644, or any part of your interest therein, or to grant licenses thereunder? If yea, state when, where, and to what extent, and with what success.

Ans. I have ever been ready to grant a license, or sell the improvement on royalty. We are selling this improvement almost—well, as a very common matter of business. I am unable to give the aggregate amount, but could do it.

X-ques. 7. Did you ever try to sell your reissue, or a part of your interest in it, or licenses thereunder, at the East?

Ans. I have made but very little effort in that direction. I have sold the steps recently on royalty to Wilmington, Delaware. Previously
37 I had sold shop rights in Philadelphia, New Haven, I think, New

York, and Buffalo, and St. Louis. I am inclined to think that this was previous to the reissue. The steps were sent to Wilmington within the last month.

X-ques. 8. As I understand your answer, the only license granted under your reissue was to Wilmington parties—am I correct?

Ans. Granting licenses and shop rights are different things altogether. Those I spoke of were shop rights, except Wilmington; that was a manufactured step-cover and wheel-fender.

X-ques. 9. Please answer question 6, which is, did you ever try to sell your reissue No. 5644, or any part of your interest therein, or to grant licenses thereunder? If yea, state when, where, and to what extent, and with what success?

Ans. Personally I have made but very little effort, if any. I don't recollect of making any effort since the reissue in the East. We are furnishing, not daily, but very frequently, steps and fenders to parties on royalty. I could not give the aggregate now, except by referring to the books. I can't answer that question as to shop rights. I have sold but one right to manufacture since the reissue, and I am not certain that that was since. We manufacture and keep on hand the steps and fenders to sell.

J. W. GOSLING.

Adjourned by consent until 2 o'clock p. m., Thursday, April 13, 1876.

W. H. WILLIAMSON, *N. P.*

THURSDAY, *April 13th*, 1876.

Present, Chas. L. Mitchell for the complainant and W. H. Fisher for the defendant.

Deposition of George R. Groot.

GEORGE R. GROOT, of lawful age, being by me first duly sworn, deposes and saith as follows:

Ques. 1 (by CHAS. L. MITCHELL). State your name, age, residence, and occupation.

38 Ans. George R. Groot; 63 years; Cincinnati, Ohio; carriage maker.

Ques. 2. How long have you been engaged in the business of carriage making?

Ans. 48 years.

Ques. 3. State what knowledge you possess concerning the various devices and improvements used in the manufacture of carriages, both for the purpose of covering the step and of forming a fender for the wheel, during the last 25 years.

Ans. I been during my career in the business for myself between five and six years. I've been superintendent in prominent establishments over thirty years. I make it a point to take all the publications on carriages I can get hold of. I am familiar with the devices and improvements used on carriages.

Ques. 4. Do you know John W. Gosling, the complainant?

Ans. I do.

Ques. 5. Were you acquainted with him at the time letters patent were issued to him, in 1867, for a combined step-cover and wheel-fender?

Ans. I was.

Ques. 6. State whether, to your knowledge, any combined step-cover

and wheel-fender was known and in use on carriages prior to the invention by Gosling, for which he obtained letters patent.

Ans. I never knew of any.

Ques. 7. Are you acquainted with John Roberts, the defendant?

Ans. I am.

Ques. 8. State whether or no at any time between Nov. 4, 1873, and June 1, 1875, you have seen carriages manufactured by Roberts having attached to them a combined step cover and wheel-fender.

Ans. I have.

Ques. 9. When and where have you seen them?

Ans. I have seen them in the streets, and at Mr. Roberts' factory, on Sixth street, between Race and Elm streets.

Ques. 10. How do you know the carriages seen by you on the streets were manufactured by Roberts?

39 Ans. I've seen the horse hitched by the sidewalk, and looked at the plate on the carriage, and I've seen them for sale at Mr. Roberts' factory and warerooms.

Ques. 11. Look at Exhibit 1 now shown you, and state whether Model B thereof, is a substantially correct representation of the combined step-cover and wheel-fender, which was attached to the carriages manufactured by Roberts, and seen by you, or whether Model B differs materially therefrom?

Ans. I consider the Model B a correct representation. I made it myself.

Ques. 12. Did you make the Model B for the purpose of showing the step-cover and wheel-fender used by Roberts on his carriages?

Ans. I did.

Ques. 13. Do you know Mr. Nicholas Patterson?

Ans. I do.

Ques. 14. Have you ever visited his carriage house?

Ans. Yes, I have.

Ques. 15. Were there any carriages in the stable at the time of your visit?

Ans. Yes.

Ques. 16. How many?

Ans. I saw a barouche, a buggy, and a spring wagon.

Ques. 17. Did any of those vehicles have a step-cover or a wheel-fender attached?

Ans. I saw one there.

Ques. 18. Can you describe the step-cover and wheel-fender attached to that one?

Ans. It was similar to the Model B, and had Mr. Roberts' patent plate attached to the door.

Ques. 19. Have you any means of knowing by whom that carriage was manufactured? If so, tell us.

Ans. I think I know Mr. Roberts' style of work, and I saw his name-plate on the carriage.

Cross-examination by W. H. Fisher waived.

GEO. R. GROOT.

40 Adjourned till 10 o'clock Saturday morning, April 15th, 1876, by consent of parties.

W. H. WILLIAMSON,
Notary Public.

SATURDAY, *April 15th*, 1876. Present, Chas. L. Mitchell, for complainant, and John Roberts the defendant.,

Deposition of Nicholas Patterson.

NICHOLAS PATTERSON, of lawful age, being by me first duly affirmed, deposes and saith as follows:

Ques. 1 (by Mr. MITCHELL). State your name, age, residence, and occupation.

Ans. Nicholas Patterson; 66 years; Cincinnati; retired business man.

Ques. 2. State whether or not you are in possession of a carriage purchased from John Roberts by you?

Ans. Yes.

Ques. 3. State whether you own more than one carriage made by Roberts.

Ans. I have only one.

Ques. 4. State whether that carriage was in your stable on Thursday last.

Ans. It was there on Thursday last. Mr. Groot saw it there.

Ques. 5. When did you purchase that carriage from John Roberts?

Ans. October the 9th, 1874, or within a day or so thereof.

Ques. 6. Did that carriage have a step-cover attached to the door?

Ans. It did. It was similar to Model B of Exhibit 1, but I am not sure whether it was attached to the step or not.

NICH'S PATTERSON.

Cross-examination waived by Mr. Fisher.

41 THE STATE OF OHIO,
County of Hamilton, ss:

I, William H. Williamson, a notary public, in and for the county and State above named, duly commissioned and qualified, do hereby certify that the above-named Frank Millward, John W. Gosling, George R. Groot, and Nicholas Patterson were by me first severally sworn and affirmed to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them severally subscribed as above set forth, were reduced to writing by me, and in the presence of the witnesses respectively, and were subscribed by the said witnesses in my presence, and were taken at the time and place in the annexed notice specified, and were continued from day to day, as above set forth; that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.

In testimony whereof I have hereunto set my hand and official seal, this 15th day of April, A. D. 1876.

[NOTARIAL SEAL.] W. H. WILLIAMSON,
Notary Public in and for Hamilton County, Ohio.

42 IV. TESTIMONY FOR RESPONDENT.

United States circuit court, southern district of Ohio.

JOHN W. GOSLING, COMPLAINANT,
vs.
JOHN ROBERTS, DEFENDANT. } No. 2090.

The testimony of John Curtis, F. C. Albrecht, John C. Otting, John M. Miller, and H. W. Robinson, witnesses for respondents, taken this 13th day of March, 1877, at the office of Wm. Hubbell Fisher, esq., 255 Walnut Street, Cincinnati, Ohio, in said district, in accordance with agreement of counsel for both parties; Chas. L. Mitchell, esq., appearing for complainants, and Wm. Hubbell Fisher, esq., for respondents.

Deposition of John Curtis.

Mr. JOHN CURTIS, first produced for respondent, being first duly sworn, deposes as follows in answer to questions put him by Mr. WM. HUBBELL FISHER, respondent's counsel:

Ques. 1. What is your name, age, place of residence, and occupation, and how long have you been so engaged?

Ans. My name is John Curtis; I am 58 years of age; I live in Cincinnati, and am a carriage manufacturer and dealer in carriages, and have been so engaged since I was 14 years old; that is, began to learn my trade then.

Ques. 2. Are you familiar with the different variety and styles of carriage-steps?

Ans. I am.

43 Ques. 3. Have you seen any device which operated as a wheel-fender and step-cover of carriage, and if yea, describe the same.

Ans. Yes; I saw such a fender and step and cover like the one shown in the model on this table (refers to Respondent's Model No. 1), some years ago. It was while I was working as a journeyman, about thirty-five years ago. I made the upper part of the support for the cover, a shield shape, and I was employed to cover one with leather about that time.

Ques. 4. How many of them have you seen?

Ans. There were quite a number of them in use about that time, especially by that firm. They are only a deviation from the ordinary kind shown in the other model on the table (referring to Respondent's Model No. 2), which were in general use, and had been for some time. This kind, like No. 1, which I saw then, and to which I have referred, was made and used by a man named Adams, of London, England, and I understood that he was going to get a patent on it, but I don't know whether he did or not. I saw them in use by this man Adams, in London, England, at the time referred to. It was also made and used by some few other manufacturers of London.

Ques. 5. You have referred to the style of carriage-steps represented by Defendant's Model No. 2. Will you state how and to what extent, said device operated as a wheel-fender and as a step-cover?

Ans. To a great extent it would operate in that way, if properly constructed. The intention of the use of the first kind, like No. 1, was to entirely accomplish this object of protecting the dress from the wheel. The stem of the cover in steps like No. 2, can be so arranged as to act

as a complete protection. I cannot tell how far in this kind (which I have said I had known for some time prior to the date of the manufacture of such as No. 1, by Mr. Adams). The device generally operated as a protection or wheel-fender and step-cover, as I never noticed them so closely as that.

Ques. 6. Have you ever had any personal acquaintance with a device such as that represented by Respondent's Model No. 2, since you came to America; if so, state when and where?

44 Ans. Yes; I have constructed them myself, more or less. I have applied them to carriages.

Ques. 7. To what purposes have you constructed and applied such devices?

Ans. As a general thing they are intended as a step-cover. The door itself, in that class of work, shields the dress.

Ques. 8. State whether or not you have ever applied said device, represented by Respondent's Model No. 2, to the door of a carriage with a view to protecting the dress of the party entering or leaving the carriage from the wheel?

Ans. Yes, I have done so when carriages were hung higher and the stem of the cover was longer.

Ques. 9. Did such arrangement of this stem and cover perform the functions of a wheel-fender?

Ans. When properly constructed and arranged it did.

Ques. 10. My last question referred to the arrangement and application of the step-cover mentioned in your answer eight (8); and keeping that answer in mind, my question is, when you constructed and arranged the step-cover of No. 2, and applied the same to your carriages for the purpose of enabling said step-cover and stem to answer as a wheel-fender as well as step-cover, did the device, as so arranged and applied, successfully perform the function of a wheel-fender?

Ans. I think so.

Ques. 11. How many of the devices represented by Respondent's Exhibit Model No. 2 did you apply to carriages, so that it would perform the double function of step-cover and wheel-fender, and when and where?

Ans. That I can't remember. All I have done I have done here in this city. I cannot fix the date. It would have been ten or twelve years ago, I should say—perhaps ten or fifteen years since I first made them.

Ques. 12. Have you any idea how many you put on?

Ans. I cannot remember.

Ques. 13. Can you recollect sufficiently to be satisfied that you put on more than twelve?

Ans. I could not.

45 Ques. 14. Look at the Complainant's Exhibit No. 1, Model A, and state if you know what it represents?

Ans. That represents the step and cover used and invented by Mr. Gosling.

Ques. 15. What, in your opinion, is the value of the attachment of the step-cover therein shown to the step, and state the advantages or disadvantages of such an arrangement?

Ans. This step-cover would not be complete without being attached to the step, in my opinion, or would not be practicable. The only disadvantages I know is that it contracts the space in getting, as shown in contrast with Model "B."

Ques. 16. Give your reasons why the step-cover represented in Model "A" would not be complete without being attached to the step?

Ans. From being loose at the door, and necessarily of considerable length, it would scrape the wheel and flop about if there were no provision to prevent it.

Ques. 17. State what in particular are the disadvantages attending the contracting of the space between the step-cover and step when open, as alluded to in your answer 15?

Ans. Ladies generally require more room than can be conveniently used in the door of light carriages. The nature of their dresses demand it. I know of one instance in which a lady, in getting down from a carriage, where the horses were fidgety, caught her foot and her dress between the fender and the step and made it very troublesome. I meant to convey the idea that the space is necessarily small, and it won't bear any further contraction.

Ques. 18. In the instance of the lady alluded to in your previous answer, what fender and step do you refer to?

Ans. The one shown in Complainant's Exhibit 1, Model "A."

Ques. 19. Explain the difference in construction, in Complainant's Exhibit No. 1, between the models "A" and "B?"

Ans. In Model "A" the flexible plate is attached by hinge to the door and step. On Model B is a simple flexible plate rigidly attached to the door, with a guard where it strikes the wheel.

46 Cross-examination by complainant.

Ques. 20. State how long you have been engaged in the manufacture of carriages in Cincinnati, and to what extent?

Ans. About 23 or 24 years; since 1853; to a moderate extent, not very largely part of the time.

Ques. 21. Is your business retail alone, or wholesale and retail?

Ans. Retail alone.

Ques. 22. To what style of carriages was the respondent's Model No. 1, to which you have referred, applied?

Ans. That was applied to two and four passenger carriages, phaetons, broughams; what they call phaeton abroad is called a barouche here.

Ques. 23. Have you ever used, in the course of your business in the manufacture of carriages, the device shown in Respondent's Exhibit Model No. 1?

Ans. No, I never have.

Ques. 24. Have you ever seen it used in America?

Ans. I think not.

Ques. 25. On what style of carriages is the device marked No. 2 of respondent's model generally used?

Ans. On all classes of heavy carriages, and on those carrying four persons.

Ques. 26. Is not the device shown in No. 2 generally and almost exclusively used upon carriages that are heavy, that are swung low, and in which the door of the carriage serves as a fender to the wheel, when open?

Ans. I think I said before that they are used almost exclusively on heavy carriages of that description. And outside of Cincinnati they are used very extensively on lighter carriages. They are used on that heavy class of carriages, hung low, and in which the door of the carriage serves as a fender to the wheel when open.

Ques. 27. Do you, in the course of your business, apply the device marked No. 2 in respondent's model, to light vehicles which are swung high, and in which the wheels are large?

Ans. Not at present.

47 Ques. 28. State whether, in the incident above referred to of a lady's having caught her foot and dress in the fender, you were personally aware of it and present at the time, or whether you were told of it?

Ans. I was not present at the time; my superintendent told me of it, and the outside cover was taken entirely off.

Ques. 29. Do you know by whom that fender and step-cover, above referred to, were made?

Ans. It was on one of Mr. Gosling's make of carriages.

Ques. 30. State whether you know what style of fender and step-cover combined is used by the respondent, Mr. Roberts, and complained of by the complainant, Mr. Gosling, in this suit?

Ans. The one shown in Complainant's Model "B" seems to be a good representation.

Ques. 31. State whether you are not applying, in the course of your business, substantially the same device used by Roberts to carriages made by you?

Ans. No; I am not using the same device.

Ques. 32. State whether you are not using a similar device?

Ans. I am using one of my own invention; similar in some respects.

Ques. 33. Describe the differences between the one you are using and the one shown in Complainant's Model "B" as well as you can.

Ans. I use a fixed bracket to the door, with a joint and spring to keep it from flying back.

Ques. 34. Are not the devices shown in Nos. 1 and 2 of respondent's model so arranged as that the step-cover, when the door is open, falls outside of the hind-wheel?

Ans. It is usually so, though not necessarily so.

Ques. 35. Would not the step-cover, if so hung as to open in a line with the wheel, prevent in many classes of vehicles the wide opening of the door, by the step-covers striking the hind-wheel? I refer to vehicles that are high-swung; that have large hind-wheels?

Ans. It would unless they were coupled longer, with a view to obviate that, which could be done.

48 Re-examination by respondent's counsel.

Ques. 36. Please explain why you made the answer you did in answer 27.

Ans. Because I am using a device, which I explained in my answer 33, as follows: "I use a fixed bracket to the door, with a joint and spring to keep it from flying back."

Re-cross-examination.

Ques. 37. State, to the best of your ability, how long you have been using the device described in your answer 33?

Ans. I can't tell whether it is three, or six, or how many years. I have been using it quite a little time.

Ques. 38. Have you been using it more than two years?

Ans. Yes.

Ques. 39. Have you been using it more than three years?

Ans. I think I have.

Ques. 40. Have you been using it more than six years?

Ans. I cannot tell; now you have me. I cannot say.

JOHN CURTIS.

Further taking of this testimony adjourned, by consent of counsel, to Wednesday, March 14th, 1877, at 2.15 p. m., at same place.

JOSEPH WILBY,
Notary.

Further taking of this testimony resumed at same place, Wednesday, March 14th, '77, at 2.15 p. m., the same parties being present.

JOSEPH WILBY,
Notary.

Deposition of F. C. Albrecht.

F. C. ALBRECHT, being produced for respondent, of lawful age, being by me first duly sworn, deposes as follows in answer to questions put to him by Mr. WILLIAM HUBBELL FISHER, respondent's counsel:

49 Ques. 1. What is your name, age, residence and occupation?

Ans. Francis C. Albrecht; aged 46 years; residence, Cincinnati; carriage maker by occupation.

Ques. 2. How long have you been a carriage maker?

Ans. I went at the trade in 1849.

Ques. 3. State whether you have ever seen in use on carriages prior to the year 1867, any step-cover to perform the double function of step-cover and wheel-fender, as a step-cover keeping the step free from mud and dust, and as a wheel-fender protecting the dress of the rider, on entering and leaving the carriage, from the wheel?

Ans. I have known a step-cover previous to that year. The stem of the step-cover being in front of the wheel always acted as a fender to the front of the wheel.

Ques. 4. How long before the year 1867 have you known of the device mentioned in your last answer?

Ans. They were in use and customary to be used, ever since I can remember, on light carriages, and on light family, four passenger carriages, which had a door.

Ques. 5. Examine the models Complainant's Exhibit 1, Models "A" and "B," and Defendant's Models 1 and 2, and state if you know what each represents?

Ans. The Model "B" represents a step-cover and wheel-fender, so does Model "A." This model, respondent's model, I have seen No. "2" the one commonly in use, for a long time. No. "1" is similar to No. 2, but I have not seen it before. It has two stems, and No. "2" has one.

Ques. 6. How long have you known the device represented by Repondent's Model No. 2 to have been in use?

Ans. About as long as I have been at the carriage business, about as long as I have known anything about the construction of carriages.

Ques. 7. Have you yourself ever made or had anything to do with the making of devices like that represented by No. 2, and the application thereof to carriages; if yes, when and where?

Ans. I have constructed them when I was working at the trade previous to 1859, and I am using them now.

50 Ques. 8. State whether or not you consider the device represented by Respondent's Model No. 2 as a practical one?

Ans. I do.

Ques. 9. Examine the Complainant's Exhibit No. 1, Model "A," and state, if you know, whose make of step-cover it represents?

Ans. This represents Mr. John W. Gosling's make.

Ques. 10. What, in your opinion, is the value of the attachment of the step-cover therein shown, to the step, and state the advantages or disadvantages of such an arrangement.

Ans. The intention is to make a step-cover when the door is shut, and a wheel-fender when open; that is the intention of it.

Ques. 11. Question 10 repeated.

Ans. In my opinion there is not much value about it; the fender, being attached to the bottom of the step, don't leave as much room as it ought to leave to persons getting in and out of the carriage. I rather consider it an obstruction than an advantage to the step.

Ques. 12. Is your opinion, given in the last answer, a matter of opinion simply, or is your opinion grounded upon any practical experience? If the latter, state what experience you may have had concerning same.

Ans. I make that statement from experience, for I have taken several off of carriages for people who found them to rattle, and dresses catching; principally for rattling and tearing their dresses.

Ques. 13. If the step-cover represented by Complainant's Model "A" were detached from the step, how would it operate?

Ans. If it were detached below, where it is attached to the step, it would fly about and rub up against the wheel, and, in my estimation, be a great nuisance.

Ques. 14. In said Model "A," you will observe that there is no lock or catch whereby the door, when closed, can be fastened, the door being held shut by the elasticity of the flexible or elastic step-cover. State whether or not, in a working device of the description represented by Model "A," it would be practicable or safe to omit from the door such fastening or catch?

Ans. I do not think it would be practicable to omit the lock
51 from the door, for the weight and size of the door, by jarring and swinging about on the street, the door would fly open, the strength of the flexible plate could not be strong enough to keep the door shut, in my estimation.

Ques. 15. State what would be the case or practicability of applying the device represented by Complainant's Model "A" to that style of carriages which are short-coupled and have high wheels.

Ans. To apply this step-cover to such high-wheeled, short-coupled carriages I have found it almost impossible to do in my experience; it requires a good deal of room for the door to go back to clear the step and the fender, the fender away from the step.

Ques. 16. State whether you ever saw any of the devices represented by Complainant's Model "A" in actual use, where the step-cover was not attached to the step?

Ans. I do not remember of ever having seen any device of that kind.

Ques. 17. Examine the Models "A" and "B," Complainant's Exhibit No. 1, and state the differences, if any, in their construction and operation.

Ans. The differences between "A" and "B," "A" being loose on the door, or operated by hinges on the door, also by hinges on the bottom of the step. Model "B," the flexible plate being fastened solidly to the door, and having a guard for the wheel.

Ques. 18. In your opinion, how readily could the device represented by Complainant's Model B be adjusted to the various descriptions of light carriages?

Ans. There is not much difficulty in attaching the step-cover of Model B, for the fender is loose from the step, and gives the fender or the door all the play between step and wheel.

Ques. 19. In your opinion, how does the device represented by Complainant's Model A compare practically with the device represented by Respondent's Model No. 2 in value, as a wheel-fender and step-cover?

Ans. In my opinion, I believe Model No. 2 is a better step-cover and wheel-fender than Model A.

52 Ques. 20. In your experience as a carriage manufacturer, how

have you found a plate attached to the door, for the purposes of step-cover and wheel-fender to work practically, as compared with the combined step-cover and wheel-fender, Respondent's Exhibit, Model No. 2.

Ans. I have found the plate attached to the door to work very well as wheel-fender and step-cover, each one of them being a step-cover, and the stem of No. 2 and door being in front of the wheel is in a great measure a guard or fender for the wheel.

Ques. 21. In your own experience which style do you use?

Ans. We have been using the flexible plate attached to the door, but have now quit and use a device similar to that on No. 2.

Ques. 22. Give your reason why you gave up using the flexible plate.

Ans. They are more expensive was one. Also they are more apt to get out of order, not being as easily constructed.

Ques. 23. State where you are now doing business?

Ans. Northeast corner John and Everett, Cincinnati.

Ques. 24. How long have you beeng doing business there as a carriage manufacturer?

Ans. Since August, 1869.

Ques. 25. Where were you doing business prior to August, 1869, and what was the nature of that business?

Ans. It was in 1859, on July 1st, that I started in the manufacturing of carriages in Cincinnati, and carried that on until, I think, the fall of 1865, and from that time until about August, 1869, I was engaged in the making and selling of varnish.

Cross-examination by Mr. MITCHELL:

Ques. 26. State whether the step-covers and wheel-fenders shown in the Complainants Exhibits Models A and B, and the devices shown in the Respondent's Exhibits Nos. 1 and 2, are applicable to vehicles of the same description?

Ans. They are.

Ques. 27. State, whether in the course of your business, you
53 apply the device shown in Respondent's Exhibit, Model 2, to all the vehicles of the kind to which Model A, of the complainant's exhibit is applied?

Ans. We now apply this device like No. 2 to all the vehicles to which we formerly applied the device is in the Model A, that is the flexible step. We could not apply the device on Model A to all the carriages but we could apply Model 2 to all the carriages that have a door. Where we do put any cover and fender on a carriage we do apply the device shown in Model No. 2 to all the kinds of vehicles to which Model A (complainant's) is applied. That is at present our custom—for the present.

Ques. 28. Do you now apply the said device No. 2 to all the styles of vehicles to which you formerly applied a flexible plate?

Ans. If we put on a step-cover at all we do, whenever we can apply it.

Ques. 29. Are there not certain styles of vehicles which you now make, and to which you formerly applied a flexible plate, to which you now, in manufacturing, do not apply the device No. 2?

Ans. We do manufacture carriages to which we do not apply either a step-cover or fender of either kind. Yes, there are some, because we don't put any on at all.

Ques. 30. Is not the device shown in Model No. 2, respondent's exhibit, generally applied to carriages which are low swung, and in which the lower edge of the door is not far from the step?

Ans. I don't think that the construction of the step is governed entirely by the way the carriage is hung. Neither of these particulars in the construction of the carriage have anything to do with the application of the device referred to.

Ques. 31. I don't ask whether these things have anything to do with the application of this device, but whether or not this device is not generally applied to carriages so constructed.

Ans. It is sometimes, but not as a rule.

Ques. 32. In the device shown in No. 2 does not the step-cover, when the door is open, fall outside of the wheel?

54 Ans. It does on that model, and in the construction of a step of that kind it generally does.

Ques. 33. How large is the stem generally used in the application of device No. 2?

Ans. Some put on a large one and some a small one. Generally, for a door of that kind, the stem would be an oval piece of iron, sufficiently strong to hold the cup, as the maker deems it necessary for strength.

Ques. 34. In the device shown in model No. 2, does not the mud and dust collect upon the step-cover, and upon the brackets of the step, more or less?

Ans. It does, somewhat.

Ques. 35. Would not the same be the case in device No. 1 of respondent's exhibit?

Ans. It would to a certain extent.

Ques. 36. Can the device shown in model No. 2 be applied to vehicles, short-coupled and with large wheels, with the same facility and practicability as the device shown in Model B of complainant's exhibit?

Ans. In constructing carriages properly, and applying the step, you can put either of the steps shown in the models referred to on most any carriage, Model B having the advantage upon a short-coupled carriage over the device like No. 2.

Ques. 37. Is not the device like No. 2 usually applied to carriages in which the door itself acts as a fender to the wheel, or where the edge of the wheel is far enough back, so as to render a fender to the wheel unnecessary to protect the passenger in getting in or out?

Ans. I don't think that applies as a rule to the construction of that step.

Ques. 38. Is that device not applied to carriages of that kind?

Ans. It is applied to some that hangs low, and to others that hangs higher.

Ques. 39. Is that device No. 2 generally applied to short-coupled high carriages?

Ans. It may be so applied. I have applied it so. I don't know whether it is so applied as a rule.

55 Ques. 40. Do most high vehicles which are short-coupled have on them the device shown in No. 2?

Ans. Some have, and some have not. Some have no cover on at all.

Ques. 41. How many short-coupled high vehicles have you made within the last five years to which you have applied the said device No. 2?

Ans. I have applied it to several of them that I have made, some of which are now on exhibition in my wareroom, and some are in use.

Ques. 42. In making short-coupled high vehicles, do you generally apply said device No. 2, or do you generally make them without step covers?

Ans. Some we put step covers on and others we don't put any on at all. I couldn't say which we do the most.

Ques. 43. Examine Models A and B, and compare them with Models 1 and 2, and state whether, for the purpose of protection from mud and dust, Models A and B are not better?

Ans. I believe A and B have the advantage in that respect; but at the same time they gather a good deal of dirt and mud too.

Ques. 44. You state that several years since you used a flexible plate upon some of your vehicles. Whose device was it that you so used?

Ans. I bought, I think, one pair of these, Model A, Gosling's patent, and also I used, I think, only one pair of Mr. Boberts', like Model B.

Ques. 45. Did you use any others than those mentioned?

Ans. I used a flexible plate that is similar in appearance to those mentioned, afterwards.

Ques. 46. Whose device was it?

Ans. My own.

Ques. 47. Did you get a patent on that device?

Ans. We did.

Ques. 48. Who did?

Ans. Albrecht & Weinann did.

Ques. 49. Did you get this patent before or after you used the
56 covers purchased from Gosling, and similar to Model B, and to which you have referred?

Ans. I don't know positively, and I can't state, as I haven't got the dates when I got the patent, nor the dates when I bought those of Gosling. I filed a caveat and long after that got a patent.

Ques. 50. Would you be able, upon examination, to state the dates of your purchase from Gosling, and the time of obtaining your patent?

Ans. I can ascertain the date when we got our patent, but it is very doubtful whether I can find out the time when I made the purchase from Gosling.

Ques. 51. Will your books not tell you when you made the purchase from Gosling?

Ans. It is likely that they will not.

Ques. 52. Would you be able to state, after an examination at your factory, or at your office, how many high short-coupled vehicles you have made within the last eight years to which you have applied device No. 2, and how many to which you have not applied device No. 2?

Ans. I believe I would not be able to find that out; I am reasonably sure that I could not.

Ques. 53. If device No. 2 were applied to a high short-coupled vehicle, would not the step-cover have to fall outside of the wheel in order to enable the door to be fully opened?

Ans. I think I have said that it generally falls outside the wheel when the door is open.

Ques. 54. Would not the rim of the wheel in such a case project somewhat under the door?

Ans. No man would construct a carriage so that the hind wheel would come in front of the door, if he knows anything about building a carriage. If it projects under the door it comes in front.

Ques. 55. Is not the lower edge of the door in many short-coupled high vehicles above the line of the hub of the hind wheel?

Ans. It is above the line of the hub.

Ques. 56. In such short-coupled high vehicles is not the door often so made that when open at right angles to the body of the carriage it touches, or almost touches, the tire of the wheel?

57 Ans. It should not by at least four inches. I don't believe that any carriage maker will couple his carriage so short that his door will nearly strike the wheel when open at right angles before there is any weight in the carriage, or when it is empty; for when the carriage is loaded and the springs sag, the wheel would then push the door nearly ten degrees towards the carriage from the right angle.

Ques. 57. In such short-coupled high vehicles is not the door often so made that when open at right angles to the body of the carriage it touches, or almost touches, the tire of the wheel, when the carriage is loaded?

Ans. It does when the carriage is loaded.

Ques. 58. What is the diameter of the hind wheel in short-coupled high carriages; what is the general size, the average?

Ans. I presume about 3 feet 10 inches or 3 feet 11 inches, the way they are constructed now, having been used higher formerly.

Ques. 59. In high-swung short-coupled vehicles, how high is the lower edge of the door above the center of the axle; the average?

Ans. That is a hard question to answer.

Ques. 60. How high are they ever?

Ans. I don't know that there is any rule to determine this. It must be determined by the draught of the carriage.

Ques. 61. How much play must the body of such a vehicle have between its bottom and the perch of the vehicle?

Ans. So that it does not strike.

Ques. 62. Have you not already said that six inches ought to be allowed for the sagging of the springs when the carriage is loaded?

Ans. Yes.

Ques. 63. Is there not sometimes a good deal more allowed?

Ans. There may be. There is sometimes more and sometimes less.

Ques. 64. Are there not some short-coupled vehicles in which the lower edge of the door is as much as ten inches above the hub of the hind wheel?

Ans. It is very likely that there is?

58 Ques. 65. You have spoken of the rattling of step-covers, such as shown in Models A and B. Can that rattling not be prevented by proper appliances in the same way that the rattling in other parts of the vehicle is avoided?

Ans. I believe wherever there is a flexible steel plate put in front of the step, or used as a step-cover, it will always rattle, no matter how constructed, as shown in Complainant's Models A and B, Exhibit 1. It is almost impossible to stop the rattling in Model A. I have tried it and was unable to stop it in this model A.

Ques. 66. How often have you tried it with Model A?

Ans. Very often.

Ques. 67. In what ways did you attempt to prevent it?

Ans. I have tried to close up the lower hinge, it being worn out by use. Even if there is nothing loose about it, it will rattle when the carriage is in motion, on account of the upper and lower hinges.

Ques. 68. Did you ever try rubber or leather applied under the edge of the step?

Ans. The step always has rubber or leather on it, on the step as well as on the branches; or should have it.

Ques. 69. Is there not a great difference, in different vehicles, in the distance of space between the body of the vehicle and the wheels?

Ans. There is a considerable variance as to the space between the body of the vehicle and the wheels.

Ques. 70. Is it not easier in vehicles where the distance or space is great between the wheels and the body of the vehicle to apply the step-covers, as shown in Models A and B, than it would be to apply the device shown in No. 2?

Ans. Model A can be applied only when there is a certain space. Model 2 is, I think easier to be applied, for Model A has to have a certain distance between the wheel and the body, and depends on the size of the door also.

Model B can be applied to any door regardless of space, the fender not being fastened to the bottom of the step.

Ques. 72. Is not the step of vehicles usually hung below the center of the door, or near the center?

59 Ans. It generally is where there is neither step-cover or wheel-fender applied of any kind.

Ques. 73. In vehicles in which the device No. 2 is generally applied, is not the step generally hung below the center of the door, or near the center?

Ans. Not as a rule; it don't apply to that step.

Ques. 74. Where is the step in such vehicles usually hung?

Ans. Generally so that the step-cover passes outside of the rim of the wheel.

Ques. 75. Are there not some vehicles in which the space is so great between the wheel and body, and the door is hung so near to the hind wheel that, in order to make the step cover pass outside of the wheel, the step would have to be hung very far forward, under the door space?

Ans. If the space between the wheel and body were three feet or more, and the door opening on the same angle, as shown on Model No. 2, I would put the step in the centre of the door, and swing the step-cover inside the wheel.

Ques. 76. Did you ever see a four-passenger carriage in which the space between the wheel and the body was three feet or more?

Ans. I did not say that I did see it, but I say it might be done.

Ques. 77. What is the average distance between the two hind wheels in a four-passenger carriage?

Ans. I don't know as to a certainty.

Ques. 78. State as near as you can.

Ans. I don't know; I can't make no statement. I know there is a wide difference.

Ques. 79. State as near as you can, the greatest distance between the hind-wheels in any carriage made by you within the last five years?

Ans. I can't make a statement at variance. I don't know for certain.

Ques. 80. Don't you know that the State track is five feet and two inches generally understood by carriage manufactures?

Ans. I thought I did until this morning, when a gentleman said it was five feet in the Western Reserve, in the northwestern part of the State.

60 Further taking of this testimony adjourned to Thursday, March 15th, 1877, at 2.15 p. m., by consent of counsel.

JOSEPH WILBY, *Notary.*

Further taking of this testimony now resumed, pursuant to appointment, March 15, 1877, all parties present as before, and the cross-examination of Mr. Albrecht resumed.

Ques. 81. Can you state whether there is not a great difference in different vehicles in the distance from the step into the carriage; in other words, in the length of the stays of the step?

Ans. There is.

Ques. 82. What does that difference depend upon?

Ans. It depends upon the hang of the body; if it be low or high.

Ques. 83. Do you mean to say that in carriages that are swung high the stays are long, and in low swung carriages the stays are short? Is that it?

Ans. The step is generally made so as to answer to the body. If the carriage is swung high it takes a longer step, and if it is swung low it takes a shorter step.

Ques. 84. Do not the steps of high swung carriages project further from the side of the carriage than those of the low swung carriages, because of this greater length of stay?

Ans. I don't know that *that* is particularly necessary that the step stand out further on a high swung carriage than on a low one.

Ques. 85. I did not ask you if it was necessary, but whether it was not generally so?

Ans. Carriage-makers generally apply steps to carriages to make them as convenient for getting in and out of as possible, and it is better to make steps to a high swung carriage further from the carriage than those of the low swung carriages, for if the step is 24 inches long, of course it is easier to step from it if it is some out from the carriage than if it is right under the carriage; and, as I have said, the makers generally make carriages so as they shall be most convenient for use.

61 Ques. 86. If device shown in Model No. 2 were applied to a vehicle, with a step of 24 inches, such as you have referred to, would not the stem of the step-cover slant out or curve out, so that the step-cover would not be directly under the door?

Ans. If the step was set out, the cover would always be on the step; if the step was slanting, the stem of the cover would be slanting. That is, I would correct this by saying that on a step, as shown by Model No. 2, the stem of the step-cover can be perpendicular under the door.

Ques. 87. State whether it is not usual, in applying the device shown in Model No. 2 to carriages which are high swung, to so attach the step to the carriage as that the stem of the step-cover does slant out, the step-cover itself is outside of the line of the door?

Ans. I apply that step-cover with nearly a straight stem down from the door, giving it enough curve at the bottom only to adjust the cover properly on to the step.

Ques. 88. How much is that curve, and how much does it carry the step-cover outside of the door?

Ans. The curve is so made, either short or long, as we term it, to adjust the cover onto the step properly.

Ques. 89. How far outside of the line of the door does the inside line of the step-cover fall in the carriages to which you apply that device and which have a step of 24 inches?

Ans. It falls just there, to cover the step neatly and make a finish thereof.

Ques. 90. How far would that be?

Ans. Just as far as the step would come away from the body.

Ques. 91. About how far would that be in inches?

Ans. In my practice of making carriages I don't apply a certain rule or number of inches to set the step out from the body. I make it so that it is convenient for people to get in or out, and have no certain rule to work by in that respect, and cannot, therefore, determine how many inches steps generally set from bodies.

Ques. 92. State the average distance, as near as you can, in inches.

Ans. It may be out one inch and as many more inches as would
62 make it convenient, and would be a proper step for getting in or out, and the back line of the step may be on a line with the outside of the body or an inch under it.

Ques. 93. Do you mean to say that with a vehicle having a step of 24 inches, the back line of the step is usually or ever made so as to be on a line with the body of the carriage, or to project under the body?

Ans. I have willing and faithfully conveyed my idea in the mode of setting steps on carriages, and cannot give any more minute explanation as to that point. When I used the term of 24 inches in the step, it was merely to name a certain space. I did not mean to say that steps were generally made 24 inches long, but if a step of 24 inches long was put on a carriage, in order to be convenient it should stand away from the body; that is the back line of the step should stand away from the body.

Ques. 94. What is the longest step usually put upon high swung carriages?

Ans. That is determined by the taste of the party putting it on. It is not governed by any number of inches or feet. The idea of the party governs this entirely.

Ques. 95. Did you ever apply, in the course or your business, a step of 24 inches to a passenger vehicle?

Ans. I doubt it, if ever I did.

Ques. 96. Is not a step of from 12 to 16 inches about as long as is usually applied to the highest of high swung vehicles?

Ans. There are steps of that length applied, and some that have 18 inches.

Ques. 97. Do you mean to say in your answer to question No. 92 that a step of from 14 to 18 inches can be or is usually so attached to the vehicle, as that the inside edge of the step is in a line with, or projects under, the body of the vehicle?

Ans. The step is generally set on a carriage, as the maker deems it more convenient to get in or out. If the step was short I wouldn't set it out as far as if it was longer. If it was a step of from 14 to 18 inches, I would not set it under the body, nor would I set it out very far from the body.

Ques. 98. Are not steps of from 14 to 18 inches usually set
63 out from the body of the carriage about five or six inches, in order to make them convenient for getting in or out?

Ans. I set my steps on my carriages to be convenient to get in or out of the carriage, no matter whether they are 14 or 18 inches long, and I believe that is the rule that all carriage-makers apply. While putting on steps on carriages I don't work by a rule or number of inches to set in or out. If the step plate is 7 by 7½ inches the step may set out six inches (that is, the front line of the step) from the body. The longer the step, I would set it out a little further. If the step was from 14 to 18 inches long it would, as a matter of course, go out a little further.

Ques. 99. Are not steps of from 14 to 18 inches in length, and which have a step-plate of 7 by 7½ inches, usually so hung as that the back line of the step projects from five to six inches from the line of the body of the carriage, or stand out from five to six inches, or thereabouts, from the line of the body of the carriage.

Ans. It seems to me that 5 or 6 inches is too much of a space to set out, but there might be such put on.

Ques. 100. What is the narrowest space usually allowed between the inside rim of the tire of the hind-wheel, and the body of the carriage?

Ans. I do not know.

Ques. 101. Is it ever less than a foot?

Ans. I don't know.

Ques. 102. What is the widest track that you ever made to carriages in the course of your business?

Ans. In the course of my business in constructing carriages, I don't work to a fixed rule in regard to the track of the carriage, nor do I know that any other carriage makers apply a fixed rule for the track. When a party orders a carriage to a certain track we make it so. I can't do it because the track is made to suit the bodies. The average track is, I believe, 5 foot 2.

Ques. 103. What is the width of the widest body for passenger coaches or carriages, measured from outside to outside, which you make in the course of your business?

Ans. I don't know.

Ques. 104. Do you ever make them wider than fifty inches, measured from outside to outside?

64 Ans. I don't know.

Ques. 105. Look at Model A, complainant's exhibit, and state whether the device shown in No. 2 of respondent's model could be applied to that model, so that the step-cover would fall outside the wheel without throwing the step of the carriage very far forward under the door space?

Ans. It can be so applied, and still have the step under the center of the door.

Ques. 106. Would the step-cover then fall outside the wheel?

Ans. It can be so made by hanging the body far enough forward and making the coupling sufficiently long.

Ques. 107. Are there not a great many high swung short coupled vehicles which have long steps where the space between the wheel and the body is considerable, and in which the door is so arranged that a step-cover, such as shown in device No. 2, could not be applied to the door, without either striking the wheel when the door was open, and then preventing the full opening of the door, or throwing the step very far forward under the door space.

Ans. In a high swung carriage and short coupled, in order to apply either of the devices No. 2 or Model A, it would be necessary in Model No. A to set the step as near to the front line of the door, in order to bring the fender over the wheel, which rule would apply as well, and in no other way, to Model No. 2.

Ques. 108. Would not the step, in such a carriage, have to be set further forward in order to enable device No. 2 to fall outside the wheel than it would to bring the device shown in Model A directly in front of the wheel?

Ans. I don't think it would make a material difference in the setting of the step.

Re-examination by WM. HUBBELL FISHER, Esq:

Ques. 109. In your answer to question No. 32, which reads, "In the device shown in No. 2 does not the step-cover, when the door is open, fall outside of the wheel," you say, "It does on that model," "and

65 in the construction of a step of that kind it generally does."

Now please inform me when the step-cover in a step of that kind does fall outside of the wheel, does or does not the step-cover and stem

operate as a wheel-fender, and give your reasons for whatever answer you may make.

Ans. It does to a certain measure operate as a wheel-fender, for the stem being in front of the wheel, or nearly so, will prevent dresses from striking the wheel when getting in or out of the carriage.

Ques. 110. Will you please tell us what is the object, if any, of the attachment of the guard or stay, shown in Respondent's Models Nos. 1 and 2, as attached to the inner side of the hinge edge of the door and the inner edge of the body, and state whether or not such attachment is applied generally to doors?

Ans. The object of this stay is to let the door go open a certain distance and prevent the step-fender from striking the wheel or the door rubbing against the wheel, and it is generally or ought to be put on all carriage doors; at least we apply it to all doors.

Ques. 111. State whether or not there are many short coupled high swung carriages made, in proportion to the number of carriages manufactured?

Ans. There are not many of them made. Carriages are not generally high swung now. It is out of style.

Ques. 112. Onto those which are thus made, i. e., high swung and close coupled carriages, is it *is* customary to attach step-covers of any kind?

Ans. It is not generally the custom now, for they most all have proved a nuisance more or less.

Ques. 113. In your opinion, could the step-cover, represented in Model A, be applied to high swung short coupled carriages?

Ans. In my opinion it would be difficult to adjust step-cover in Model A to high swung short coupled carriages on account of the room between step and wheel not being sufficient to operate the same.

Ques. 114. Please examine Model B, and state how the back line of the step compares with a vertical line through the adjacent side of the body?

66 Ans. The back line of step of Model B is about on the line with the outside of the line of the body, i. e. the perpendicular line from the outside of the body.

Ques. 115. From the proportions of the door and step in Model B, what should you say was the probable length of the step represented by that model?

Ans. I don't know that this model has been made to a rule, but from the appearance I should say it was about 16 inches below the body.

F. C. ALBRECHT.

The further taking hereof, by consent, now adjourned to 2.30 p. m., March 16th, 1877, at same place.

CHAS. B. WILBY, *Notary.*

Further taking of this testimony now resumed, this 16th day of March, 1877, at 2.30 p. m.

John C. Otting being now produced as a witness for respondents, being of lawful age, and being first duly sworn, deposes as follows in answer to questions put him by Wm. Hubbell Fisher, esq., counsel for respondents. Same parties being present.

JOSEPH WILBY, *Notary.*

Testimony of John C. Otting.

Ques. 1. What is your name, age, residence, and occupation?

Ans. John C. Otting; age, 53; Cincinnati; blacksmith.

Ques. 2. Have you ever been engaged in the manufacture of carriages, or any part thereof; if so, state where, when, and to what extent?

Ans. Yes; in Cincinnati, on Central avenue. I left there eight years ago. I have been engaged in doing the whole work of building the carriage.

Ques. 3. Have you ever seen a device attached to a carriage
67 which answered, at the same time, as a cover for a step, and as a fender, to protect the dress of the party entering or leaving the carriage, from the wheel?

(Objection, by counsel for complainant, to the examination of this witness upon the question of novelty of invention, or prior use of the invention of the complainant, because said witness is not named, or mentioned or referred to in the answer of the respondent; complainant therefore objects to this question.—JOSEPH WILBY, *Notary.*)

Ans. Yes, sir.

Ques. 4. State when and where you saw the device mentioned in the previous question, and how you came to see the same?

(It is understood that the counsel for complainant objects to every question put to this witness for the reasons stated in objection to previous question.—JOSEPH WILBY, *Notary.*)

Ans. It was about 15 or 16 years ago, on David street, near Central avenue.
I passed by there and so came to see it.

Ques. 5. Was the carriage which had this device standing still or moving, and was it in the street, or where?

Ans. Standing still; it was before the carriage shop.

Ques. 6. Whose carriage shop?

Ans. Butler's carriage shop—old man Butler's.

Ques. 7. Describe the device you there saw, in particular.

Ans. Something like those here (Respondent's Exhibit, Model 1). The two branches of the stem covered the wheel and the step. The space between the two branches was solid. That is all to my recollection.

Ques. 8. When you say that the space between the two branches of the stem was solid, do you mean that there were two stems attached to the step-cover, as shown in No. 1, respondent's exhibit, and that there was a plate between the stems filling this space, or that there was one solid plate which answered for the stems and filled the space between?

68 Ans. I mean there was one solid plate. There was no stems to my recollection.

Ques. 9. How was this plate attached to the door of the carriage?

Ans. I could not say. I just passed by. I did not examine it. To the best of my recollection, that is all I know. I just opened it (the door) and that was all. I didn't make no further examination of the door.

Ques. 10. Did you open the door more than once, and why did you open it?

Ans. I do not recollect. I opened it to look at it; to see how the thing worked; that was all.

Ques. 11. How did the solid plate cover the step?

Ans. It went right in front over the step.

Ques. 12. Was there any other step-cover besides this solid plate?

Ans. Not as I know.

Ques. 13. Was this solid plate bent or straight?

Ans. It was kind of crooked, I couldn't say whether it was bent or not; I just passed by.

Ques. 14. Examine Models A and B, Complainant's Exhibit No. 1, and state how they compare with the device you describe as having seen at Butler's?

Ans. To my knowledge I couldn't say whether the plate was formed just like this here (Model B), but it opened and lay against the wheel like this here (Model B), and was free from the step.

(Counsel for the complainants objects to all testimony of this witness on the ground above stated, and moves the court to rule out the same.—JOSEPH WILBY, *Notary.*

Cross-examination by complainant's counsel, Mr. MITCHELL:

Ques. 15. What kind of a carriage was it to which you saw this device attached?

Ans. A kind of "rockaway."

69 Ques. 16. Was the step of the carriage a long one or a short one?

Ans. I don't recollect; I didn't make it. I think it was the usual length.

Ques. 17. Was the carriage a high one or a low one?

Ans. I think the usual height.

Ques. 18. Would you call it a high hung carriage, or a low hung carriage, or a medium hung carriage?

Ans. I couldn't tell.

Ques. 19. Can you say whether the carriage was long or short coupled?

Ans. No, sir; I can not, and I didn't look for that neither.

Ques. 20. Can you state about how much space there was between the fore wheel and the hind wheel?

Ans. No, sir.

Ques. 21. Can you state whether the solid plate of which you have spoken was flexible or not?

Ans. I couldn't tell.

Ques. 22. Can you state whether, when the door was open at right angles, this plate touched the wheel?

Ans. Yes, sir, it did.

Ques. 23. What was the shape of the door of the carriage?

Ans. A high door.

Ques. 24. What do you mean by a high door?

Ans. It was with a standing top, and the door was as high as the top was.

Ques. 25. Did the door have an open space or a window at the top of it?

Ans. I don't recollect.

Ques. 26. Did it not have one or the other?

Ans. I suppose it had either an opening or the glass, one or the other.

Ques. 27. Was the carriage an old one or a new one?

Ans. I don't recollect how old it was, now how new.

Ques. 28. Do you know whose make of carriage it was?

Ans. I do not.

Ques. 29. Was the carriage standing idle when you saw it, or did it have a horse, or horses, attached to it?

70 Ans. It was standing idle. There was no horse to it.

Ques. 30. Did you ever see the carriage before, or have you ever seen it since that time?

Ans. Not to my knowledge.

Ques. 31. Do you know whom the carriage belonged to?

Ans. No, sir.

Ques. 32. You have stated that the step was, you think, of about the usual length? Is there not a great difference in the length or different steps, in different carriages?

Ans. Not a great deal.

Ques. 33. Do not some vehicles have steps of the length of 14 and 16 inches, and others steps not exceeding six or eight inches in length?

Ans. Not in that kind of steps; side step—low step. I never seen that much difference, and I never made any like that, in the lower side door step.

Ques. 34. What is your idea of the usual length of a step of that kind?

Ans. From about 10 to 12 or 14 inches, according to how the body hangs.

Ques. 35. Look at Respondent's Model No. 2, and state whether the carriage to which you have referred was not one of that kind of carriages, to which the flat-step cover shown in Model No. 2, is often applied?

Ans. The carriage was a standing top and not a falling top. It was not like this. No, they do not put that kind of a step-cover to very many carriages like that now.

Ques. 36. Was not the carriage to which you have referred one of that kind of carriages to which carriage makers, at that day, often applied the flat-step cover shown in the model No. 2?

Ans. Yes; at that time they used to put this kind of a flat-step cover like No. 2, onto carriages like what I saw; and, also, on to other carriages, too.

Ques. 37. Did not that carriage have a long door?

Ans. Yes, sir; and high as I call it. It was not long; it was high.

Ques. 38. Can you state whether or not the plate which you have described was bent back from the door or not?

71 Ans. I couldn't tell no more.

Ques. 39. Can you state whether the step of the carriage had any protections at the side?

Ans. I cannot.

Ques. 40. Can you say whether, when the door was closed, this plate was fitted close to the stays of the step?

Ans. I cannot.

Ques. 41. How long were you examining that carriage?

Ans. A few minutes.

Ques. 42. Did you open the door more than once?

Ans. I couldn't tell.

Ques. 43. Was any one else present at the time?

Ans. Not to my knowledge.

Ques. 44. Can you give the name of any person else who saw that carriage?

Ans. I cannot.

Ques. 45. Did you make any drawing of the step or step cover?

Ans. I did not.

Re-examination by WM. HUBBELL FISHER, Esq., for respondent:

Ques. 46. What led you to examine and open the door of this carriage in front of Butler's?

Ans. I never seen anything before like it.

Ques. 47. Has old man Butler a carriage shop on David street, near Central avenue, where you saw the step-cover and wheel-fender; and, if not, how long is it since he stopped doing business there?

Ans. It is almost 12 or 13 years, I think, since he quit. He was, before that, doing business on the corner of David street and Central avenue, Cincinnati. They called the street "Western Row," then. He has no shop there now.

Recross-examination by Mr. MITCHELL:

Ques. 48. Where is old man Butler?

Ans. I think so far as I know, he died.

72 Ques. 49. Was any one working there as Mr. Butler's partner, at the time you saw this carriage, or had he any workmen?

Ans. Not as I know of, he had no partner; he had the business all to himself; he had workmen, I suppose; I never worked for him.

Ques. 50. Can you name any of the workmen who worked with him there, or state where they are to be found?

Ans. I cannot, neither.

J. C. OTTING.

The further taking of this testimony is now, by consent, adjourned until Monday, March 19, 1877, at 2.15 p. m., at same place.

CHAS. B. WILBY, *Notary.*

MARCH 16, 1877.

The further taking of this testimony is now resumed, pursuant to adjournment, at same place, same parties present as before.

CHAS. B. WILBY, *Notary.*

MARCH 19, 1877.

Testimony of John M. Miller.

JOHN M. MILLER, being duly sworn, deposes as follows, in answer to questions put to him by WM. HUBBELL FISHER, Esq., for defense:

Ques. 1. Please state what your name, age, place of residence, and occupation, and how long have you been so engaged?

Ans. My name is John M. Miller; I am fifty-four years of age; I live in Westwood, near Cincinnati; I am a carriage manufacturer, and have been so engaged for about 30 years.

Ques. 2. When and where have you been engaged in carriage manufacturing?

Ans. I was so engaged in Cincinnati during the whole time.

Ques. 3. State whether or not you have ever seen, prior to the year 1867, a device which at the same time operated as a cover for the step of a carriage, and for a fender protecting the rider on entering or leaving the vehicle from the wheel, and if so, state when and where you have seen such device, and describe the same.

73 Ans. I haven't seen anything except like the model No. 3, on the table (Defendant's Model No. 3), the device of which answers for a wheel-fender somewhat; I have seen them in common use in Cincinnati and elsewhere; I don't know how long before 1867 it was that I first saw this so used, but it was a number of years before.

Ques. 4. On what kind of vehicles?

Ans. On carriages with doors.

Ques. 5. Did you ever put on such a carriage such a device?

Ans. Yes.

Ques. 6. Did the step-cover keep the step free from dirt or not?

Ans. Yes, sir; free from dirt.

Ques. 7. Examine Complainant's Exhibit No. 1, Model A, and state what the same represents, and whose device is it, if you know?

Ans. This is what purports to be J. W. Gosling's patent cover.

Ques. 8. If the plate which operates as a step-cover in said model were detached from the step, how practical would the device then be?

Ans. It would be incomplete and very objectionable; the cover would be loose upon the step and always rattling, and also would let the mud to get in; and also when it was open it would bang against the wheel; there would be nothing to protect the paint of the step-cover from the wheel.

Ques. 9. Examine Model B, same exhibit, and tell us your opinion of the device represented by said model as to its being practical in use.

Ans. This model B is known as, or represents what is known as, Roberts' step-cover; it answers the purpose of a fender and step-cover, and is practicable.

Ques. 10. Compare Models A and B in said exhibit and describe the differences existing between them.

74 Ans. In the model A the step-cover is hinged to the door and also to the step; in Model B the step-cover is fastened rigidly to the door, and is not attached to the step; in Model B there is a handle to the door, and in Model A there is none; there is a rubber guard on Model B, upon the cover, to keep it from the wheel, and none in Model A.

Cross-examination by Mr. MITCHELL, for complainants:

Ques. 11. Are there not some styles of vehicles in which the device shown in Respondent's Model No. 3 could be conveniently applied, because of the distance of the hind wheel from the body of the carriage being considerable, so that when the door was open the step-cover would strike the wheel?

Ans. I would answer, that there would be less liability in that case for the step to strike the wheel than if the body were shorter coupled.

(The question being read over again to the witness, he answers further:—Notary.)

I don't think a case of that kind would be met with, if I understand the question. If the wheel were very far out, you could move the step and the cover as far out as you pleased to avoid this.

Ques. 12. Can the step be moved forward in the way you have mentioned, in carriages that are moderately short coupled without making the step inconvenient?

Ans. I think it could be arranged as easily as any other step.

Ques. 13. Look at Complainant's Models A and B, and state whether the device shown in Respondent's Model No. 3, could be applied to the doors and steps there shown, without moving the step much further forward.

Ans. It could not be applied to those steps at all, for they are not the right shape. The step on No. 3 and the cover could be applied to these doors, but you would have to calculate so as to put the step-cover where it would clear the wheel; that is a point of calculation always with the carriage-maker. Yes, I think you could put them on without moving the step much further forward.

Ques. 14. Could the device shown in Respondent's Model No. 3 be applied to Models A and B, with the steps in the same relative position as those which are now attached to the Models A. and B?

75 Ans. I say it could be applied, but I don't think it would work quite so well as it would if it were moved a little further forward.

Ques. 15. Would the step-cover then clear the wheel?

Ans. It might if the wheel was not too large.

Ques. 16. What do you mean by clearing the wheel?

Ans. I mean not to strike it when the door is opened sufficiently to allow a person to pass into the vehicle.

Ques. 17. Would the step-cover then clear the wheel, as shown in Models A and B, if the device No. 3 were applied, with the steps in the same relative positions as the steps on the said models?

Ans. I think it would clear on Model B, and I don't think it would on Model A.

Ques. 18. Do you mean that the step-cover would fall outside of the wheel in Model B?

Ans. No; I think it would fall a little in front of it.

Ques. 19. Is not the device shown in No. 3 like the device shown in No. 2, generally applied to carriages which are so constructed that the cover does fall outside the wheel when the door is open?

Ans. Yes, sir.

Ques. 20. Are there not some styles of vehicles which are moderately short coupled and with narrow doors, to which the device shown in No. 3 and No. 2 is not generally, and can not be conveniently applied?

Ans. Yes.

Ques. 21. Are there not some classes of vehicles to which the devices shown in 2 and 3 can not be applied, to which the device shown in Model B can be applied?

Ans. I don't think I know of any just now.

Ques. 22. You have said that there were some vehicles which, because they were moderately short coupled and have narrow doors, do not admit of the application of the device shown in 2 and 3; can not the device shown in Model B be applied to some of those vehicles?

Ans. I meant to say, and I did say, if the device in No. 2
76 and No. 3 can not be conveniently applied to such vehicles, in answer to quest. 20. I can say if the device in Model B, might be applied, but I don't know whether the question means more conveniently or not.

Ques. 23. Is not the device shown in No. 3 often applied to carriages which are so made that when the door is opened at right angles, its lower edge is very close to the tire of the wheel?

Ans. Yes, sir.

Ques. 24. Does not the stem of the step-cover of the device shown in No. 3 generally curve outward or backward from the door when the stem is long?

Ans. Perhaps it does. I don't that it always does so.

Ques. 25. If the step is a high one must it not project from the body of the carriage in order to make it convenient for entering and leaving the carriage?

Ans. Yes, sir.

Ques. 26. Is not the device shown in respondent's models, Nos. 2 and 3 generally applied to vehicles where the body of the carriage is low and the step low?

Ans. Yes, sir.

Ques. 27. Please explain the difference between high and low steps.

Ans. A high step is a longer step from the body to the step and a low step is a shorter step, but I don't mean in my answer to say that the devices Nos. 2 and 3 is confined to any particular height of step; it is applicable to a high step, as well as a low one.

Ques. 28. Do you not, in the course of your business, manufacture

vehicles which are so made, as that when the door is open at right angles the tire of the wheel is nearly opposite the outer end of the door?

Ans. I don't know of any such cases.

Ques. 29. Do you not make some vehicles in which the space between the body of the carriage and the hind wheel is as much as eleven or twelve inches, and in which the lower edge of the beveled door is not longer than thirteen or fourteen inches?

Ans. That may be, but I couldn't say without measuring, or having them before me.

77 Re-examination by respondent's counsel:

Ques. 30. State whether or not you know of any class or classes of short coupled carriages to which it is difficult or inconvenient to apply the device represented in Model A, and give your reasons for your answer.

Ans. Yes, sir; there are some. When the carriage is so short coupled that the door cannot be opened at right angles to the body, the step-cover takes a position in front of the step and prevents access.

JOHN M. MILLER.

Further taking of this testimony adjourned to Thursday, March 22nd, 1877, at 2.15 p. m. by consent of counsel.

JOSEPH WILBY, *Notary.*

Met in pursuance of adjournment, same parties present, March 22, 2.15 p. m., and by consent of counsel the taking of this testimony is further adjourned to Monday, April 2nd, at 10 o'clock, a. m. at the same place.

JOSEPH WILBY, *Notary.*

Met in pursuance of adjournment, the same parties being present, April 2, 10 a. m.

JOSEPH WILBY, *Notary.*

Deposition of Hiram W. Ransom.

H. W. ROBINSON, being produced for the respondents, and being by me first duly sworn, deposes, in answer to questions put to him by Mr. WILLIAM H. FISHER, counsel for respondents, as follows:

Question 1. What is you name, age, residence, and occupation?

Ans. Hiram W. Ransom; 41 years; Cincinnati, O.; blacksmith.

78 Ques. 2. How long have you resided at Cincinnati? What has been your business during that time, and with whom have you been associated in business, and in what capacity?

Ans. I have resided in Cincinnati about 8 years, that is, my last residence here has been about 8 years; carriage-blacksmithing has been my business during that time; I have only worked for parties, B. Bruce & Co., in the capacity of blacksmith.

Ques. 3. How long have you worked at the trade of blacksmithing, and in what places, and give the length of time you worked at each place, and also for whom you worked, and the character of their business?

Ans. I learned my trade at the age of 14 years; I worked three years for the firm of Corning & Williams, in Groton, New York, doing a carriage business; I worked one year for Palmer, Lee & Co., Owego, New York, doing the business of carriage makers; I worked two years for

Joseph Smith, at Waverly, New York, doing business of carriage makers. Between these last two employments I was not doing anything; it was for a few months, I was sick. Then I followed railroading, I believe, between a year and eighteen months; then I worked for Minor & Stephens, in the city of New York, for about nine months; I came to Cincinnati from there and worked for John Shannon; I don't recollect how long I worked for him; I can't recall it to my mind now; it was not over a year; I went from there to Greenfield, Ohio, and worked for Daniels & Son, from two and a half to three years; I came from there to Cincinnati, and worked for Mr. Roberts a short time; I don't recollect how long; I then went to Richmond, Indiana, and was there about three years; I came to B. Bruce & Co's from there; was there a short time, a very short time; I was not doing anything then for a short time, I don't recollect how long; I believe I worked for Mr. Gosling for about two weeks; I can't remember just when, whether it was before or after my last engagement; I think I worked at Geo. C. Miller & Co. about two weeks; I can't recollect that time either; I went to work for Mr. Roberts again then; I don't recollect how long I worked for him at that time; I went to Vincennes, Indiana, and was there a short
79 time, two months; I went from there to Crawfordsville, Indiana, for a short time; from there to B. Bruce & Co., of Cincinnati, until the first of this last month; I believe I did work in the town of Ludlowville, New York, between the times I was employed at Groton and Owego; at present I am at Greenfield, Ohio; I reside myself in Cincinnati, but I am working in Greenfield. This is all to the best of my memory; my memory is not very good, owing, I think, to a sunstroke I have had; where I was employed, except on the railroad, it was in the carriage manufacturing business.

Ques. 4. Prior to the year 1867, had you ever seen any device attached to the door of a carriage which answered for a cover for the step and a fender to protect the dress of the rider from the wheel? If yea, describe the same.

Ans. To a certain extent I have. Well, I might describe it by these models, I suppose (meaning Models Nos. 2 and 3 of respondent.)

Ques. 5. For how long, prior to the year 1867, had you seen the devices represented by models Nos. 2 and 3 of respondent in use, and to what extent was that use?

Ans. As long as my recollection serves me, and the use was to a considerable extent on certain styles of carriages, that is to say, on carriages with doors; they would not be applicable to carriages without doors.

Ques. 7. State whether or not you had any difficulty in applying the device represented by Models Nos. 2 and 3 of respondent, to carriages.

(Objected to by complainant's counsel as leading.—JOSEPH WILBY, *Notary*).

Ans. If I have had it has been very slight; so little that it has been overcome.

Ques. 8. Look at Model A, complainant's exhibit, and state, if you know, what it represents.

Ans. My understanding is that it represents a step-cover and wheel-fender.

80 Ques. 9. Have you had any practical acquaintance with the same; if so, where, when, and to what extent?

Ans. Well, I suppose in the last 8 years I have made and applied probably this step to a hundred carriages; somewhere in the neighborhood of a hundred; not a fac-simile of Model A, but the same princi-

ple. Some of them were the same exactly. I did this at B. Bruce & Co's during all the time I was there.

Ques. 10. Is the device referred to in the last 2 questions applicable to all classes of carriages; and give your reason for any answer you may make.

Ans. Well it couldn't be made applicable to all classes of carriages; for instance, to carriages without doors. I suppose you mean any class of carriages with doors. I have met with carriages with doors, that I couldn't apply the cover and fender to. It might possibly have been due to my lack of knowledge of the application. My reasons are, that in some carriages, the shortness of the coupling will not allow the door to open squarely, but puts the fender in an oblique position in the way of the person entering the carriage.

Ques. 11. Are you acquainted with the step-cover ordinarily employed in combination with the door of an omnibus, and if yea, state whether you have ever seen such a step-cover combined with the door of the carriage, and if yea, state where and when you have so seen it.

(Question objected to by complainant's counsel as leading.—JOSEPH WILBY, *Notary.*)

Ans. I am quite well acquainted with the principles of the step-cover to an omnibus used for that purpose; my impression is, that I have seen a similar cover on what we term a thorough-braced coach; some might call it a carriage. I can't recollect distinctly about it; I had something to do with that class of work, years ago.

Ques. 12. What function or functions did the device you have spoken of in your last answer, perform?

Ans. It acted as a step-cover, and it might have been made to act as a wheel-fender; but I have no positive recollection of the intention in that matter.

81 Ques. 13. Are you satisfied that you saw this device last spoken of, prior to the year, say 1866?

Ans. My impression is, that I saw it before that.

Ques. 14. How early are you satisfied that you saw it?

Ans. Well, as early as 1856.

Cross-examination by complainant's counsel, Mr. CHAS. L. MITCHELL.

Ques. 15. When and where did you see this device last spoken of, on a thorough-braced coach?

Ans. Somewhere in the State of New York; I couldn't tell just in which place; in one of the places when I was employed there; I can't remmeber where.

Ques. 16. You don't know whether it was intended to answer as a wheel-fender as well as a step-cover, do you?

Ans. I do not.

Ques. 17. You don't know whether it did serve as a wheel-fender as well as a step-cover, do you?

Ans. My impression is that it could have been made to serve as a wheel-fender.

Ques. 18. Did this particular step-cover to which you have referred, actually serve as a wheel-fender?

Ans. I have no recollection as to whether it did or did not; my mind at that time was not on wheel-fenders.

Ques. 19. Look at Complainant's Model B, and state whether the same objection would apply to the application of Model B to certain short-coupled carriages, that you have given with reference to Model A?

(Counsel for respondents objects to questions in reference to Model B, as not being in cross-examination.—JOSEPH WILBY, *Notary.*)

Ans. I think not.

Ques. 20. Could not either Model A or B, one of the two, by a proper adjustment, be applied to all carriages with doors, where a step-cover and wheel-fender of any kind could be applied?

Ans. Well, my experience has been that Model A could not be applied where other step-covers might be applied; with Model B I have had no experience whatever; I never applied one of them.

82 Ques. 21. Can you not judge, from the model here shown, and from your experience at carriage blacksmithing, whether Model B could not be applied to all such carriages?

Ans. My belief is, from what I have seen of the two, that Model B could be applied to a larger class of carriages.

Ques. 22. To what classes of carriages are respondent's models, Nos. 2 and 3, applied?

Ans. As far as my experience has been, they are applied to all classes of carriages with doors.

Ques. 23. Are Models Nos. 2 and 3 usually applied to all classes of carriages to which you have seen Model A applied?

Ans. Yes, sir.

Ques. 24. Are Models Nos. 2 and 3 generally applied to carriages as wheel-fenders or as step-covers only to protect the step from the mud?

Ans. I never have applied any myself with the intention of answering both purposes. I could't say in regard to the intentions of others.

Ques. 25. For which purpose have you yourself applied Models Nos. 2 and 3?

Ans. As step-covers.

Ques. 26. Cannot Model A be practically applied to some vehicles with narrow bodies, where Models Nos. 2 and 3 could not be conveniently applied, owing to the fact that the step-cover would strike the wheel when the door was open?

Ans. In my experience I never have had any difficulty of that kind.

Ques. 27. Are not the devices shown in Models 2 and 3 generally applied to carriages with low bodies and short steps?

Ans. I don't know that they are any more applicable to that class than others.

Ques. 28. Are they not oftener applied to that class of carriages than to others?

Ans. Only, as I think, there are more of that class of carriages built than there are of high ones.

Ques. 29. Are not the devices shown in models 2 and 3 always so applied as that the step-cover falls outside of the wheel when the door is open?

83 Ans. I couldn't say that they were.

Ques. 30. Are they not usually so applied?

Ans. Most usually, I believe they are.

H. W. RANSOM.

Further taking of this testimony adjourned to Monday, April 9th, at 10 o'clock a. m., at same place, by consent of counsel.

JOSEPH WILBY, *Notary.*

Met, in pursuance to adjournment, Monday, April 9th, and further taking of this testimony is now adjourned, by consent of counsel, sine die.

JOSEPH WILBY, *Notary.*

Certificate.

STATE OF OHIO,
Hamilton County, U. S. of America, ss:

I, Chas. B. Wilby, a notary public in and for Hamilton County, State of Ohio, aforesaid, do hereby certify that John Curtis, F. C. Albrecht, John C. Otting, John M. Miller, and H. W. Robinson, whose testimony is above written, all and each of them personally appeared before me and were by me, or by Joseph Wilby, severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed, as above set forth, were reduced to writing by me, or by said Joseph Wilby, in the presence of the witnesses respectively, and were signed by each of said witnesses in the presence of said Joseph Wilby, or in my presence, and that said testimony was taken at the time and place named in the agreement of counsel, which is specified in the caption hereto, and was adjourned from time to time, as specified in the adjournments above written.

84 And I do further certify that it was agreed by counsel that the subscriber and said Joseph Wilby, either, might act as notary in taking the foregoing testimony, and that the acts of either would have the same effect and be as valid as if all done and certified to by the same officer, and also that the subscriber is not a relative or counsel of either party hereto, nor in any way interested in the event of this cause.

In testimony whereof I have hereunto set my hand and notarial seal this 9th day of February, 1878.

[NOTARIAL SEAL.] CHARLES B. WILBY,
Notary Public, Hamilton County, Ohio.

85 DEPARTMENT OF THE INTERIOR.

[Eagle and shield.]

U. S. Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office of the letters patent granted John W. Gosling, dated February 26th, 1867, No. 62406, for imp't in combined step-cover and wheel-fender for carriages.

In testimony whereof I, W. H. Doolittle, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this thirteenth day of February, in the year of our Lord one thousand eight hundred and seventy-seven, and of the Independence of the United States the one hundred and first.

[SEAL.] W. H. DOOLITTLE,
Acting Commissioner.

86 No. 62406.

The United States of America to all whom these letters patent shall come:

Whereas John W. Gosling, of Cincinnati, Ohio, has alleged that he has invented a new and useful improvement in combined step-cover and wheel-fender for carriages, which he states has not been known or used before such invention; has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoveror of the said improvement, and that the same

hath not, to the best of his knowledge and belief, been previously known or used; has paid into the Treasury of the United States the sum of thirty-five dollars, and presented a petition to the Commissioner of Patents, praying that a patent may be issued therefor:

These are therefore to grant, according to law, to the said John W. Gosling, his heirs, administrators or assigns, for the term of seventeen years from the twenty-sixth day of February, one thousand eight hundred and sixty-seven, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the
87 said improvement, a description whereof is given in the schedule hereunto annexed, and made a part of these presents.

In testimony whereof I have caused these letters to be made patent, and the seal of the Patent Office to be hereunto affixed.

Given under my hand, at the city of Washington, this twenty-sixth day of February, in the year of our Lord one thousand eight hundred and sixty-seven, and of the Independence of the United States of America the ninety-first.

W. T. OTTO,
Acting Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.
[SEAL.]
T. C. THEAKER,
Commissioner of Patents.

88 UNITED STATES PATENT OFFICE.

John W. Gosling, of Cincinnati, Ohio. Letters patent No. 62406, dated February 26, 1867. Improvement in combined step-cover and wheel-fender for carriages.

The schedule referred to in these letters patent and making part of the same.

To whom it may concern:

Be it known that I, John W. Gosling, of Cincinnati, in the county of Hamilton and State of Ohio, have invented a new and useful combined step-cover and wheel-fender for carriages, and I hereby declare the following to be a full, clear, and exact description thereof, reference being had to the accompanying drawings making a part of this specification.

This invention relates to a cheap and simple device for preventing the accumulation of mud and dust on the steps of carriages, &c., and also for guarding the clothes of the rider from coming in contact with the wheels on entering or leaving the vehicle. In the accompanying drawings Figure 1 shows the position of my fender when the
89 carriage-door is open and Figure 2 represents it when the door is closed.

A represents the body of a carriage, B the rear wheel, C the door, and D the step; E is a yielding plate which may be made of sheet steel or other suitable material, and the upper end of said plate is hinged or otherwise secured to the door C, whilst its lower end is connected to a bar, H, having an eye, *h*, which engages with a suitable aperture in the flange *d* of the step. This provision of the perforated flange *d* and eye *h* enables the plate E to turn in either direction as the door C is opened or closed. The flexibility of the plate E enables it to bend up in the act of opening or closing the door (see dotted lines in Fig. 1) and its elasticity enables it to hold the door firmly in either the closed or wide

open position; when the door C is shut, the plate E closes up over the step D and this prevents the wheels from throwing dirt upon said step, as clearly shown in Fig. 2, but as soon as the door is opened the plate E turns on the pivot device *d h* at its lower end, thus uncovering the step and serving as a fender to prevent the occupant's clothes from coming in contact with the hind wheel of the carriage, as represented in
90 Fgi. 1. The yielding plate E acts as a spring to hold the door either open or shut, and also prevents said door from striking against the wheel when opened. The said plate E may be covered with leather or painted or may consist wholly of leather. I have selected for illustration the preferred form of my invention, but reserve the right to vary the same, it being susceptible of various modifications; for example, instead of being pivoted to the step D, the lower end of the plate E may be hinged or otherwise coupled to a frame projecting from the carriage body and passing under the step. In some cases, for example, when the distance from the wheel to the body is short, I provide slots on both step and fender, or one of them, to partially or wholly relieve the plate of the flexion incident to opening or closing the door.

I claim herein as new and of my invention a combined step-cover and wheel-fender for carriages, consisting of the flexible plate E, whose upper end is attached to the carriage-door and whose lower end is connected *d h* to the step or other fixed object, the whole being arranged to operate substantially as herein described and for the purpose set forth.

91 In testimony of which invention I hereunto set my hand.

JOHN W. GOSLING.

Witnesses:
GEO. H. KNIGHT.
JAMES H. LAYMAN.

(Here follows diagram marked page 92.)

93 These letters patent are endorsed as follows: 2090. United States cir. ct., southern dist. of O. In equity. Gosling vs. Roberts. Certified copy of letters patent granted to Jno. W. Gosling. No. 62406. Dated Feb'y 26, '67.

94 Ent'd. Rec'd Nov. 8, '77. W. H. F.

DEPARTMENT OF THE INTERIOR.

[Eagle & shield.]

United States Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office of the letters patent granted Josiah Ashenfelder, dated March 23, 1852, No. 8816, for "imp't in omnibus step."

In testimony whereof I, W. H. Doolittle, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this fifth day of November, in the year of our Lord one thousand eight hundred and seventy-seven, and of the Independence of the United States the one hundred and second.

[SEAL.]

W. H. DOOLITTLE,
Acting Commissioner.

95 The United States of America to all whom these letters patent shall come:

Whereas Josiah Ashenfelder, of Philadelphia, Pa., has alleged that he has invented a new and useful improvement in omnibus step, which he states has not been known or used before his application; has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said improvement, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has paid into the Treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose:

These are, therefore, to grant, according to law, to the said Josiah Ashenfelder, his heirs, administrators, or assigns, for the term of fourteen years from the twenty-third day of March, one thousand eight hundred and fifty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said
96 Ashenfelder in the schedule hereunto annexed, and is made part of these presents.

In testimony whereof I have caused these letters to be made patent and the seal of the Patent Office has been hereunto affixed. Given under my hand at the city of Washington this twenty-third day of March, in the year of our Lord one thousand eight hundred and fifty-two, and of the Independence of the United States of America the seventy-sixth.

ALEX'R H. H. STUART,
Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.

[SEAL.] THOS. EWBANK,
Commissioner of Patents.

97 The schedule referred to in these letters patent, and making part of the same.

To all whom it may concern:

Be it remembered that I, Josiah Ashenfelder, of the city of Philadelphia, in the State of Pennsylvania, have invented a new and original covering or protector for omnibus steps, together with a back-board and brush or broom, for the purpose of keeping boys and others off the same, and I do hereby declare that the following is a full and exact description thereof, reference being had to the accompanying drawings and to the letters of reference marked thereon:

The nature of my invention consists in an inclined covering or protector immediately connected with the outsid' of the door, so secured thereto as to open and shut therewith, with a brush or broom secured to the bottom of the covering as to open and shut therewith, for the purpose of cleansing the step or steps, together with a back-board, operating as a protection to the inside of the steps, so as to prevent mud, &c., from being thrown upon the same.

The covering now in use for steps of omnibuses requires an
98 alteration in the body of the coach. The step is placed flush with the back part of the body, and therefore requires that a portion of the framework of the bottom thereof should be cut away of the size of the step, in order to give room to enter the coach, the door

of which is made in one entire piece and of the same shape, and shutting flush with the back part of the body thereof. My covering or protector requires no alteration in the coach, but can be applied to coaches as now built without alteration in any particular, except to place my covering or protector upon the outside of the door, inclining outwardly sufficiently to cover the step or steps and to open and shut with the door.

To enable others skilled in the art to make and use my invention, I will proceed to describe its construction and operation. I construct my covering or protector either of wood, iron, or other materials, as shewn at A in the accompanying drawings, A being the covering, B its connection with the door C, the brush or broom D, the step with the opening or aperture at the back part thereof for the dirt to pass
99 through, E the back-board. What I claim as my invention, and desire to secure by letters patent, is the application of the inclined covering or protector to the outside of the omnibus door, as described, to prevent persons from standing, laying, or sitting on the steps, in combination with the brush or broom secured to the bottom of the covering or protector, so as to open and shut therewith for the purpose of cleansing the step or steps, each step, if more than one, requiring a brush or broom attached, together with a back-board to protect the inside of the step as described.

JOSIAH ASHENFELDER.

Witness':
H. A. SALTER.
JOHN CLOUDS.
LUKE V. SUTPHIN.

Ex'd.—H. M. H. C. K.

(Here follows diagram marked page 100.)

101 These letters patent are endorsed as follows: United States cir. c't, south. dist. of Ohio. In equity, No. 2090. Gosling vs. Roberts. Certified copy of letters patent granted to Josial Ashenfelder. No. 8816. Dated March 23, 1852. Filed Feb'y 24, 1879. Thos. Ambrose, clerk.

102 No. 90584.

THE UNITED STATES OF AMERICA.

[Design.]

To all to whom these letters patent shall come:

Whereas John Roberts, of Cincinnati, Ohio, has alleged that he has invented a new and useful improvement in step-covers and wheel-fenders for carriages, and has made affirmation that he is a citizen of the United States; that he verily believes he is the original and first inventor or discoverer of the said improvement, and that the same hath not, to his knowledge and belief, been previously known or used; has paid into the Treasury of the United States the sum of thirty-five dollars, and presented a petition to the Commissioner of Patents praying that a patent may be issued therefor:

103 These are therefore to grant to the said John Roberts, his ex-

ecutors, administrators, or assigns, for the term of seventeen years from the twenty-fifth day of May, one thousand eight hundred and sixty-nine, the full and exclusive right and liberty of making, using, and vending to others to be used the said improvement, a description whereof is given in the annexed schedule and made a part of these presents.

In testimony whereof I have caused the letters to be made patent and the seal of the Patent Office to be hereunto affixed. Given under my hand, at the city of Washington, on this twenty-fifth day of May, in the year of our Lord one thousand eight hundred and sixty-nine, and of the Independence of the United States of America the ninety-third.

W. I. OTTO,
Acting Secretary of the Interior.

Countersigned & sealed with the seal of the Patent Office.
[SEAL OF PATENT OFFICE.] SAM'L S. FISHER,
Commissioner of Patents.

(Here follows diagram marked page 104.)

105 UNITED STATES PATENT OFFICE.

John Roberts, of Cincinnati, Ohio. Letters patent No. 90584, dated May 25th, 1869. Improvement in step-covers and wheel-fenders for carriages.

The schedule referred in these letters patent, and making part of the same.

To whom it may concern:

Be it known that I, John Roberts, of Cincinnati, Hamilton County, Ohio, have invented a new and useful combined step-cover and wheel-fender; and I hereby declare the following to be a full, clear, and exact description thereof, reference being had to the accompanying drawings, making part of this specification:

This invention relates to a cheap and simple device for keeping the steps of carriages clean, and also for preventing the clothes of persons from coming in contact with the rear wheels on entering and leaving the carriage.

Figure 1 is a perspective view of a carriage-door and step
106 provided with my improvement, the door being closed; and

Figure 2 is a side view of the same, the door being open.

A represents a portion of a carriage-body.

B its door.

C a portion of the rear left wheel.

D is the step on that side, the same being preferably of the kind known as a box-step; that is, having wings *d d'*, and hangers E E' E''.

The step has a gum or leather covering, F, whose front edge may serve as a cushion or anti-rattler to the step-cover in its closed condition.

The step-cover and wheel-fender G consists of a piece or pieces of sheet-steel, or other flexible material of the form represented, the same being attached at its upper edge by bolts, H, or equivalent devices.

The outer side of the cover and fender G has two guards or cushions, I and J, of gum or leather, or other elastic material, which guards impinge against the wheel when the door is opened, and prevent the

marring of the surface of the door and fender by contact with the
107 wheel, and also act as anti-rattlers.

I have described the preferred form of my improvement, but may vary the same in some particulars; for example, the cover and fender G may be fastened to the under side of the door by a block of wood or iron, or in any other preferred manner, and a single guard or cushion may be employed.

I claim herein as new and of my invention—

The combined arrangement of the flexible fender G attached and strengthened at its upper end, the guards or cushions I J, and step D E F all constructed to operate as and for the purposes set forth.

In testimony of which invention I hereunto set my hand.

JOHN ROBERTS.

Witnesses:

GEO. H. KNIGHT.

JAMES H. LAYMAN.

108 These letters patent are indorsed following, to wit: No. 2090.

Letters patent granted to John Roberts, May 25th, 1869, for improvement in step-cover and wheel-fender for carriages. Filed Feb'y 25th, 1879. Thos. Ambrose, clerk.

109 No. 5644.] [Reissue.

THE UNITED STATES OF AMERICA.

[Picture of Patent Office.]

To all to whom these presents shall come:

Whereas John W. Gosling, of Cincinnati, Ohio, has presented to the Commissioner of Patents a petition praying for the reissue of letters patent for an alleged new and useful improvement in step-covers and wheel-fenders for carriages (for which letters patent were issued to him, dated February 26, 1867, which letters having been surrendered, the same have been cancelled, and new letters ordered to issue to him on an amended specification), a description of which invention is contained in the specification of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such cases made and provided; and

Whereas, upon due examination made, the said claimant is adjudged to be justly entitled to a patent under the law:

Now, therefore, these letters patent are to grant unto the said John W. Gosling, his heirs or assigns, for the term of seventeen years from the twenty-sixth day of February, one thousand eight hundred and sixty-seven, the exclusive right to make, use, and vend the said invention throughout the United States and the Territories thereof.

110 In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington, this fourth day of November, in the year of our Lord one thousand eight hundred and seventy-three, and of the Independence of the United States of America the ninety-eighth.

B. R. COWEN,
Acting Secretary of the Interior.

Countersigned:
[SEAL.]

J. M. THACHER,
Acting Commissioner of Patents.

(Here follows diagram marked page 111.)

John W. Gosling, of Cincinnati, Ohio, improvement in step-covers and wheel-fenders for carriages. Specification forming part of letters patent No. 62406, dated February 26, 1867; reissue No. 5644, dated November 4, 1873; application filed June 24, 1873.

To all whom it may concern:

Be it known that I, Jno. W. Gosling, of Cincinnati, in the county of Hamilton and State of Ohio, have invented a new and useful combined step-cover and wheel-fender for carriages, of which the following is a specification:

My invention consists of a cheap and simple device for preventing the accumulation of mud and dust on the steps of carriages, &c., and also for guarding the clothes of the rider from coming in contact with the wheels on entering or leaving the vehicle.

In the accompanying drawings Figure 1 shows the position of my fender when the carriage door is open; Fig. 2 represents it when the door is closed.

A represents the body of the carriage, B the rear wheel, C the door, and D the step; E is a plate, which may be made of sheet
113 metal or other suitable material, and the upper end of said plate is hinged or otherwise secured to the door C. The lower end of the combined cover and fender E may be connected to the bar H, having an eye, *h*, which engages with a suitable aperture in the flange *d* of the step. This provision of the perforated flange *d*, and eye *h*, by reason of its loose character, permits the cover and fender E to turn freely in either direction as the door C is opened or closed. The cover and fender E, I prefer to make of flexible material, so that it may bend in the act of opening and closing the door (see dotted lines in Fig. 1), and its elasticity enables it to hold the door firmly in either the closed or wide-open position, when the cover and fender are connected, as shown, to the step D. When the door C is shut the plate E closes up over the step D, and prevents the wheel from throwing dirt over the step, as clearly shown in Fig. 2; but as soon as the door is opened, the cover and fender E, being attached to the door C, is of course carried with the door, and thus the step is uncovered, and the plate E then occupies such a position as to enable it to serve as a fender to prevent the rider's clothes, on entering or leaving the
114 carriage, from coming in contact with the hind wheel of the carriage, as represented in Fig. 1. The said plate E may be covered with leather or painted, or may consist wholly of leather.

I have selected for illustration the preferred form of my invention, but reserve the right to vary the same, it being susceptible of being made to assume various forms and modifications; for example, instead of being pivoted to the step D, the lower end of the plate E may be hinged or otherwise coupled to a frame projecting from the carriage body and passing under the step. In some cases, when the distance from the wheel to the body is short, I provide slots on both step and fender, or one of them, to partially or wholly relieve the plate of the flexion incident to opening or closing the doors.

The important feature of my invention is the plate E attached to the door of the carriage, and operating by reason of such attachment as a

step-cover when the door is closed, and as a wheel-fender when the door is open.

I claim—

1. In combination with the step D and the door C, the plate E attached to the door, to operate as a step-cover when the door is closed, and a wheel-fender when the door is open, substantially as and for the purpose specified.

115 2. A combined step-cover and wheel-fender for carriages, consisting of the flexible plate E, the upper end of which is attached to the carriage door, and the lower end to the step, all being combined to operate as a step-cover, wheel-fender, and a spring connection to retain the door in the opened and closed positions, all substantially as set forth.

In testimony of which invention I hereunto set my hand.

JOHN W. GOSLING.

Witnesses:
FRANK MILLWARD.
R. M. HUNTER.

116 And afterwards, to wit, on the 19th day of February, in the year of our Lord one thousand eight hundred and seventy-nine, and entry was made on the journal of said court in said cause, clothed in the words and figures following, to wit:

JOHN W. GOSLING
vs. } 2090. Equity.
JOHN ROBERTS.

This day this cause came on for hearing and was argued by counsel and submitted. On consideration whereof the court find the equities of the cause to be with the respondent. It is therefore ordered, adjudged, and decreed by the court that the bill of complaint herein filed be, and the same is hereby, dismissed, and that the respondent, John Roberts, go hence without day and recover of said complainant, John W. Gosling, his costs herein expended, taxed at $, and execution is awarded therefor as upon judgment at law.

Whereupon the said complainant, by his counsel, prays an appeal to the Supreme Court of the United States, and asks the court to fix the amount of the appeal bond, and the court do allow said appeal and fix the amount of the appeal bond at five hundred dollars.

117 And afterwards, to wit, on the third day of March, in the year last aforesaid, an entry was made on the journal of said court in said cause, clothed in the words and figures following, to wit:

JOHN W. GOSLING
vs. } 2090. Equity.
JOHN ROBERTS.

And now come the parties, by their counsel, and consent that Complainant's Exhibit No. 1, consisting of Models A and B, and Respondent's Model No. 1, Model No. 2, and Model No. 3; also letters patent of the United States to John W. Gosling, No. 62406, dated February 26th, 1867; also reissue letters patent of the United States to said Gosling, No. 5644, dated November 4th, 1873; also certified copy of letters patent of the United States to Josiah Ashenfelder, No. 8816,

dated March 23d, 1852; also letters patent of the United States to John Roberts, No. 90584, dated May 25th, 1869, all of which were in fact produced and used in evidence at the final hearing before the court at this February term, 1879, shall be considered as filed at the time of said hearing, and all objections as to the time of filing or the non-filing of any or all of them is hereby waived. It is further ordered, by
118 consent, that the said exhibits, models, and letters patent may be withdrawn from the files by the parties introducing them, to be by them preserved and produced at the hearing on appeal in the Supreme Court of the United States.

And afterwards, to wit, on the 7th day of March, in the year last aforesaid, came John W. Gosling, and with him A. S. Butterfield, his approved surety, and filed in the clerk's office of the court aforesaid his certain appeal bond in said cause, clothed in the words and figures following, to wit:

119 Supreme Court of the United States.

JOHN W. GOSLING
vs.
JOHN ROBERTS.

Know all men by these presents that we, John W. Gosling, of Cincinnati, as principal, and A. S. Butterfield, of Cincinnati, as surety, are held and firmly bound unto John Roberts, in the sum of five hundred ($500.00) dollars to be paid John Roberts, his executors or administrators; to which payment, well and truly to be made, we bind ourselves, and each of us jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals; dated this 7th day of March, 1879.

Whereas the above named John W. Gosling hath taken an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled action by the circuit court of the United States for the southern district of Ohio:

Now, therefore, the condition of this obligation is such that if
120 the above named John W. Gosling shall prosecute his said appeal to effect, and answer all costs if he shall fail to make good his plea, then this obligation to be void; otherwise to remain in full force and virtue.

JOHN W. GOSLING. [SEAL.]
A. S. BUTTERFIELD. [SEAL.]

Sealed and delivered in presence of—
J. M. MATTHEWS.
H. D. BLAKEMORE.

The above security is approved.

PHILIP B. SWING,
District Judge S. D. Ohio,
sitting and holding the Circuit Court.

SOUTHERN DISTRICT OF OHIO, *ss:*

I, A. S. Butterfield, one of the sureties above named, do solemnly swear that after paying my just debts and liabilities I am worth three

thousand dollars in real estate, in my own name, situate in the county of Hamilton, in said district.

A. S. BUTTERFIELD.

Sworn to before me the 7th day of March, 1879.

THOS. AMBROSE,
Clerk U. S. District Court, S. D. O.

121 THE UNITED STATES OF AMERICA,
Southern District of Ohio, ss:

I, Thomas Ambrose, clerk of the circuit court of the United States for the southern district of Ohio, hereby certify the foregoing to be a true and correct transcript of the record and proceedings in the case wherein John W. Gosling is complainant and John Roberts is respondent, as the same remain in this office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 21st day of May, A. D. 1879, and in the 103d of the Independence of the United States of America.

Attest:
[SEAL.]

THOS. AMBROSE,
Clerk U. S. Cir. Court, S. D. Ohio.

(Indorsement on cover:) No. 202. John W. Gosling, appellant, vs. John Roberts. S. Ohio C. C., U. S. Filed 26th June, 1879.

REC. 202—5